

MINUTES
OF THE
ENVIRONMENTAL PROTECTION COMMISSION
MEETING

DECEMBER 15, 2003

INGRAM OFFICE BUILDING
7900 HICKMAN ROAD
URBANDALE, IOWA

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MEETING MINUTES

CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Chairperson Kathryn Murphy at 9:00 a.m. on Monday, December 15, 2003, in the Ingram Office Building, Urbandale, Iowa.

MEMBERS PRESENT

Lisa Davis Cook, Secretary
Kathryn Murphy, Chair
Darrell Hanson, Vice Chair – arrived at 10:10 a.m. and left at 3:40 p.m.
Francis Thicke – arrived at 10:50 a.m.
Terrance Townsend
Jerry Peckumn
Heidi Vittetoe – arrived at 9:35 a.m.
Donna Buell

MEMBERS ABSENT

Lori Glanzman

ADOPTION OF AGENDA

The following adjustments were made to the agenda:

- Add: Appointment – Dewayne Johnson would like to speak at Item 5 Solid Waste Alternatives Program – Recommendations.
- Add: Appointment – Iowa Society of Solid Waste Operations Representatives would like to speak in regards to Items 6 & 7. Electronics Waste Management in Iowa.
- Add: Appointment – Richard Leopold would like to speak on Item 8 FFY 2004 Drinking Water State Revolving Fund Intended Use Plan.

Motion was made by Terry Townsend to approve the agenda as amended. Seconded by Lisa Davis Cook. Motion carried unanimously.

APPROVED AS AMENDED

APPROVAL OF MINUTES

Motion was made Terry Townsend to approve the minutes as presented from the November 17th meeting. Seconded by Donna Buell. Motion carried unanimously.

APPROVED AS AMENDED

DIRECTOR'S REPORT

Jeff Vonk said that the Governor's Water Summit was a successful event. There were many good ideas and reactions from the work group reports. The Governor's office staff is reviewing all five of the updated work group reports. They will be pulling together a finalized report for the Governor. The revised work plans will be posted on the internet.

INFORMATIONAL ONLY

2004 ENVIRONMENTAL PROTECTION COMMISSION MEETING DATES

Wayne Gieselman, Division Administrator for the Environmental Services Division presented the following item.

The Environmental Protection Commission will meet the third Monday of each month. Below are the meeting dates and tentative locations for 2004.

January 20 – Des Moines

February 16 – Des Moines

March 15 – Des Moines

April 19 – Des Moines

May 17 – Des Moines

June 21 – Des Moines

July 19 – Des Moines

August 16 – Des Moines

September 20 – Des Moines

October 18 – Des Moines

November 15 – Des Moines

December 20 – Des Moines

Kathryn Murphy suggested that discussion regarding the dates and locations should be taken up under Item 17 General Discussion.

INFORMATIONAL ONLY

DEWAYNE JOHNSON from the Iowa Recycling Association expressed his support of the US GreenFiber request for SWAP funding to develop a market for paper cores and other materials that are currently being deposited in Iowa landfills.

US GreenFiber has taken the initiative to test this model in other parts of the country and is now interested in transferring this successful model to recycle Iowa's waste paper cores and other difficult-to-recycle fiber products. This would create a stable market for alternative fibers where no market existed before.

While he is aware that there is concern from staff for funding a "Nebraska project," there are no Iowa firms that provide similar recycling services for these materials. There are, however, many members of Iowa's recycling community who would benefit by having a place to recycle these items – regardless of where the facility happens to be located.

The SWAP application states that, "Eligible applicants include any unit of local government, public or private group, business, or individual with an interest in or having responsibility for solid waste management in Iowa. It also states that "The goal of the Solid Waste Alternatives Programs is to reduce the amount of solid waste generated and the amount of solid waste land filled by assisting with best practices, education, and market development projects."

We believe that this project meets those criteria and the results would be beneficial to the businesses and citizens of the State of Iowa.

Thank you for considering US Green Fiber's request for funding.

(Four letters from the following individuals showing their support of Green Fibers request for SWAP were passed out: Michael Barry with MidAmerica Recycling, Andy Ockenfels from City Carton Recycling, Mark Kramer from MDK, Inc. and Dewayne Johnson from Iowa Recycling Association.)

SOLID WASTE ALTERNATIVES PROGRAM – RECOMMENDATIONS

Valerie Drew, Environmental Specialist in the Energy and Waste Management Bureau presented the following item.

The Department received eleven (11) proposals, requesting nearly \$836,122 in financial assistance, for consideration during the October 2003 round of funding. Seven (7) applicant projects were selected for funding or additional consideration. If approved they will receive \$720,746 in a combination of forgivable loans, zero interest loans, and 3% interest loans.

The review committee consisted of five persons representing the Energy and Waste Management Bureau (Valerie Drew, Tom Anderson), Iowa Society of Solid Waste

Operations (Tom Hadden), Iowa Recycling Association (Kathryn Russell), and the Iowa Waste Exchange (Shelene Codner).

The table below summarizes recommendations by applicant and project type and by the type of award.

Recommended By Applicant Type	# Awards	Award Amount	Forgivable Loan Portion
Local Government	1	\$20,000	\$20,000
Private For Profit	6	\$700,746	\$119,750
Private Not For Profit	0	\$0	\$0
Recommended By Project Type	# Awards	Award Amount	Forgivable Loan Portion
Best Practices	7	\$720,746	\$139,750
Market Development	0	\$0	\$0
Education	0	\$0	\$0
Type of Award	# Awards	Award Amount	Forgivable Loan Portion
Forgivable loan only	4	\$99,750	\$99,750
Forgivable and 0% loan only	1	\$30,750	\$20,000
Forgivable, 0%, and 3% interest loan	2	\$590,246	\$20,000

At this time, the Department is requesting Commission approval to enter into contracts with selected applicants whose awards will be in excess of \$25,000 subject to satisfactory review of additional requested information, review of business plans, negotiation of budget, match, deliverables, and other requested information.

A description of each recommended project, the project type, the amount and type of funding assistance is attached followed by a description of other proposals received but not recommended for funding.

Valerie Drew said that we were very interested in their proposal. It certainly gives Iowa benefits, but in the history of the Solid Waste Alternatives Program we have never funded an out of state venture and we were concerned about setting a precedent. That was the reason for the funding rejection.

Dewayne Johnson mentioned that GreenFiber did apply for a grant with Nebraska too but they are waiting to hear the results.

Jeff Vonk asked if there was a way to have the Nebraska staff, GreenFiber and Iowa meet and coordinate a deal.

Valerie Drew said that she could check with the Nebraska contact and see where they are in the grant application and funding realm.

Motion was made by Lisa Davis Cook to approve the contract recommendations for the Solid Waste Alternatives Program pending the direction of the department to continue conversations with US GreenFiber to consider funding of that proposal. Seconded by Terry Townsend. Motion carried unanimously.

APPROVED AS AMENDED

Below are the comments regarding: Proposed Rule – Adopt new IAC Chapter 567-122 “Electronics Recycling”

SCOTT SMITH, Boone County Landfill said that they feel very strongly that the proposed strategy is not yet developed to a point that will provide the state the necessary guidance from sound public policy. Instead, we would like to see more time give to the process. Today you are being asked to consider approving and forwarding this strategy report to the Iowa Legislature. We respectfully ask that you defer your decision to a later date and do not approve this report in its current form.

What environmental problem, if any, needs to be addressed?

Metals contamination of water and/or air (lead, mercury, cadmium, etc)?

Where do these contaminants show up as a problem?

Products?

Businesses?

Households?

Repair shops?

Recyclers?

Dismantlers?

Landfills?

Roadsides/ravines/rivers?

Where is the scientific evidence at these sites?

Where is the evidence that these contaminants leave these sites?

Resource Recovery?

Is more action needed than just market development and promotion?

Is there a reason to more strongly mandate or subsidize recycling for these products than for other recyclables?

What management problems, if any, currently exist?

Environmental

Safety

Bypass (illegal dumping)?

Cost

What is magnitude of the problem, if any?
Contamination levels? Where?
Landfill capacity?

Summary

This proposed E-Waste Strategy is simply too broad and not detailed enough to provide adequate guidance to either the Environmental Protection Commission or the Iowa Legislature. We sincerely request that the EPC send this draft strategy back to the Department for further work before conferring your approval.

MARY WITTRY, from West Central Iowa Solid Waste made the following comments on the “Strategy Report for Electronics Waste Management in Iowa”.

The strategy report lists evaluation of a landfill ban as the most important topic that should be given priority or further consideration. The report recommends that the legislature issue a report on the feasibility and appropriateness of a ban of “select” electronics from Iowa Landfills for the 2005 session by completing the Landfill Ban Determination Procedure. I believe the strategy report should be specific as to which electronics will be included in the procedure for the following reasons:

1. The current proposed definition of what electronics includes televisions, computers, stereos, hand held calculators, wristwatches, radio alarm clocks, hearing aides, cell phones, remote controls, and others. This definition is very broad and inclusive and could lead to landfill ban on items that there does not seem to be any environmental reason or scientific information to not dispose of them in a landfill. Further, their value as recyclables is negligible at best.
2. According to the Landfill Ban Determination Procedure, banning any material should address one of three major concerns: environmental, management and volume. As solid waste managers, these same concerns are addressed to determine if there is a waste that should be banned from disposal at our landfills.
 - Environmental: This is the most important concern and addresses the impact on human health and safety. According to Tim Townsend, University of Florida, there is no compelling evidence that e-waste impacts landfill leachate. However, there is research from the University of Florida that color CRTs (cathode ray tube) such as computer monitors, fail the Toxics Characteristics Leachate Procedure (TCLP) test while similar research on other electronic waste was inconclusive. The 2003 Electronics Stewardship Legislation report showed many states dealing mainly with CRTs due to the research that has been completed. It would seem to make sense to include items in the ban procedure that there is proven scientific data to support that there is an environmental concern.
 - Management: does disposing of the material at a landfill cause difficulty or operational problems including work health and safety? Whole tires have

been banned from landfills statewide because they “float” to the surface after being buried. Yard waste was banned because of its propensity to generate methane gas when buried in a landfill.

- Volume: would significant space saving be achieved by banning material from a landfill? According to the Iowa Electronics Waste Characterization Study completed by Wuf Technologies in 2001, 6,900 tons of electronic waste was generated in 2001. 4,400 tons or 64% of this waste was from the commercial/industrial sector with 2,500 tons or 36% from the residential sector. Technically, a ban on business electronic waste is already in place through the federal regulations although education of existing laws is inadequate. Regardless, the total quantity is an extremely small percentage of the waste stream that is currently landfilled.

Using the rationale that banning any materials should address one of the three major concerns listed above and that that environmental concern is the most important, it would seem appropriate to consider putting CRT's through the landfill ban procedure.

In conclusion, I believe that the Environmental Protection Commission should reject the strategy report as presented and send it back to the advisory committee for additional work until the strategy report specifically states which material(s) will be included in the landfill determination procedure. Thank you for your cooperation on this

HAL MORTON, from DMC Regional Waste Commission said that the department has met the deadline, but has missed the mark set by the legislation. It appears that the department's directives to both advisory committees were inconsistent with the legislation from the outset. I attended a few of the meetings of both advisory committees, and on more than one occasion department staff stated to the groups that they were “mandated” by the legislature to “regulate electronics”. The advisory committees that developed both the strategy report and the proposed rule invested considerable effort based on the department's guidance, and the shortcomings of the results are no fault of the stakeholders.

In short, the strategy report fails to provide a strategy for recycling electronics or for the disassembly and removal of toxic parts from electronics. The proposals in the report cannot be implemented by administrative rule because they would require further legislative action. As a result, the proposed administrative rule has nothing to do with the strategy report, and the strategy report fails to support any of the provisions in the proposed administrative rule. The disconnect contradicts the legislative directive.

Specific Problems with Proposed E-Waste Strategy Report

TASK: Develop a strategy; then draft the administrative rules to implement the strategy.

PROBLEMS: - Proposed rules were drafted independent of the strategy.
- Proposed rules are unrelated to the proposed strategy.

- Proposed strategy is too preliminary to be implemented via rules or legislation.
- Proposed strategy is at best an outline for developing a strategy.
- Proposed strategy is based on legislative action, not regulatory action.

LEGISLATIVE GOALS:

- a. Recycling of electronic goods.
- b. Disassembly and removal of toxic parts from electronic goods.

PROBLEMS:

- Proposed strategy is not more specific than legislation.

Proposed strategy addresses landfills, financial assistance, tax incentives, RCRA Subtitle C, and continued education; **it does not address recycling or the disassembly and removal of toxic parts.**

The department has met the deadline, but has missed the mark set by the legislation. It appears that the department's directives to both advisory committees were inconsistent with the legislation from the outset. I attended a few of the meetings of both advisory committees, and on more than one occasion department staff stated to the groups that they were "mandated" by the legislature to "regulate electronics". The advisory committees that developed both the strategy report and the proposed rule invested considerable effort based on the department's guidance, and the shortcomings of the results are no fault of the stakeholders.

In short, the strategy report fails to provide a strategy for recycling electronics or for the disassembly and removal of toxic parts from electronics. The proposals in the report cannot be implemented by administrative rule because they would require further legislative action. As a result, the proposed administrative rule has nothing to do with the strategy report, and the strategy report fails to support any of the provisions in the proposed administrative rule. The disconnect contradicts the legislative directive.

Fundamental Problems with the Proposed Administrative Rule

- Fails to address or implement any strategies in Strategy Report.
- Unrelated to Strategy Report.
- Imposes costs and barriers to recycling and removal of toxic parts from electronic goods.
- Oversteps legislative directive by regulating more than "recycling" and "disassembly and removal of toxic parts from electronic goods".
- Regulates resale, reuse, collection and refurbishment of electronics, which are not waste management issues.
- Regulating commerce of used electronics under waste rules probably violates commerce clause of U.S. Constitution, and is beyond EPC's & DNR's regulatory authority.
- Regulating collection of electronics that are not part of waste stream poses same constitutional problem, and is beyond EPC's & DNR's regulatory authority.

- Refurbishment and repair are indistinguishable from an environmental perspective - treating them differently in rules is unjustifiable.
- Meaning of "reuse " and "recycling " in draft rule is inconsistent with these terms in Iowa Code (waste management hierarchy) and elsewhere in administrative code. "Reuse " means waste avoidance, or using something more than once. "Recycling" means remanufacturing rather than disposal.
- Proposed rule blurs lines between "waste " and "recycling" and "reuse ".
- Other defined terms in proposed rule do not make sense and are overly broad compared to regulatory definitions in other states, and are not based on established science.
- Proposed permit program is not clearly grounded on environmental concern. For example, financial assurance requirements were dropped because the environmental risk is small, which undermines the rationale for permitting them in the first place.
- New permit programs create additional administrative burden on DNR (who already has a huge permit action backlog).

Both the strategy report and the proposed rule have suffered from a hurried deadline. Neither product addresses the legislative goals of encouraging recycling of electronics and disassembly and removal of toxic parts from electronic goods. In fact, the proposed rule is likely to have the opposite effect. However, both the proposed rules and the strategy report will significantly affect several classes of stakeholders who were not represented or were under-represented on the advisory committees.

Initiating the rulemaking procedure with the current draft will seriously delay progress toward the legislative goals. In order to develop a strategy and regulatory framework that will best approach the legislative goals, both advisory groups should be expanded to include all of the potentially affected stakeholder groups, such as electronics retailers, repair shops, landfill operators, local government officials and waste haulers, and both committees should be given a time extension to thoroughly complete the task.

In summary, DNR met the deadline, but seriously missed the target. A regulatory strategy remains to be developed, and the proposed rules are fundamentally flawed. EPC should reject the proposed rules immediately so that the department can make a fresh start on developing a regulatory strategy that encourages recycling and the disassembly and removal of toxic parts from electronic goods. Once that strategy is developed, rules (if needed) for its implementation can be drafted. Both the strategy and the rule should be based on current science (which is virtually absent in the current proposals) and a clearly defined environmental issue.

Please reject the proposed rule and table the strategy report to allow it to be improved to meet the legislative intent.

DAN MICKELSON, representing the Waste Commission of Scott County made the following comments:

1. Priorities of the Strategy Report

As a member of the committee that developed the Strategy Report I was troubled that the report lists the issues of concern for the state of Iowa according to priority. It was my understanding that we as a group were deciding what areas the State should pursue to help the electronics recycling industry in Iowa grow.

After reading the Strategy Report one would interpret that the most important issues facing the electronics recycling industry would be the need for an evaluation of a landfill ban on selected electronics, which would not be determined by the committee. Instead, I would contend that the main issues, based on discussion during the committee meetings, facing the electronics recycling industry in Iowa is the development of infrastructure and recycling outlets for electronic waste.

It is important that all five areas of concern be evaluated equally in order for the industry to benefit. How can a ban, a tax or development of a new program occur without first educating people on why?

2. Actual Hazard vs. Rhetoric

The Environmental Protection Agency in the preamble to the Proposed CRT Rule, states that EPA considers color CRT's from businesses to be a hazardous waste and must be managed according to RCRA hazardous waste rules when disposed of.

Research from the University of Florida has also concluded that color CRTs fall the Toxicity Characteristic Leaching Procedure for lead.

However, similar research on other electronic waste was inconclusive. For instance, one VCR in three may fail TCLP for lead. There are also debates among the researchers about whether the TCLP test is an accurate way to measure the affect electronics may have on landfills. Preliminary testing from the University of Florida has shown mixed results. Electronics crushed to meet the specifications of TCLP resulted in different levels of heavy metals compared to those electronics left uncrushed. Researchers at the University of Florida are theorizing that the metal and plastic contained in electronics are binding the lead and preventing it from being released.

Finally, if you remove batteries from the municipal solid waste stream, CRTs according to the University of Florida account for over 80% of lead in municipal solid waste stream. All other electronic waste account for only 2.9% of lead, while glass and ceramics products account for 9.18% of lead in the waste stream.

It only makes sense to direct our attention and resources on CRT containing devices, which would have the greatest influence in the reduction of lead in the municipal solid waste stream and would be the easiest to manage, remove and enforce.

3. Burdensome Requirements on Short Term Collection Events

When requiring a registration or permit for an activity, the first question that should be asked is:

What is the environmental benefit of regulating this activity?

- The answer to this question is, there is no benefit, because the collection of whole electronic waste by a government agency or local citizen's group does not create a hazard to the environment. In fact, these rules place more requirements on electronic collection events than on toxic clean up days or mobile household hazardous material collections events, which pose a greater collection hazard than electronics.

The question that also needs to be asked is what happens to a citizen's group or government agency that conducts or plans an even with out registering with the DNR. Will there be fines or will the DNR prevent the event from taking place?

Another problem is the definition of a short term collection event which makes no distinction between an electronics collection event organized by local residents and a collection event organized and sponsored by a county government. Another issue with the definition is the requirement that all short term collection events must transport the collected electronics to a "properly permitted electronics recycler." This requirement of the definition would prevent short term collection events from sending their electronic waste outside the state of Iowa.

Finally, to include in the operational requirements of a short term collection even t the need or the potential need of a storm water permit suggests a potential environmental impact or hazard for whole or unprocessed electronic waste that is not supported by scientific data testing.

4. Current Programs

The Waste Commission of Scott County has been properly recycling electronic waste for Scott and Muscatine Counties in Iowa and Rock Island and Henry Counties in Illinois since April of 2000 without incident. The E-Waste program includes mobile collection events, a permanent drop off, curbside collection for the largest city in Scott County and has recently been award a grant to build a facility that will serve seven eastern Iowa Counties. To date the E-Waste Program has accomplished the following:

- Conducted two one day county wide collection events that collected 90 tons of electronics from 2,300 households.
- Served over 2,700 participants and collected 7,300 items through curbside and permanent drop off.
- Properly recycled 134,000 pounds of leaded CRT glass and 28,000 pounds of circuit boards.

All of the Program's accomplishments have not been obtained by legislative action nor has the environmentally sound recycling practices the Waste Commission uses for

electronic waste been accomplished through DNR Administrative Rules. Instead, the Program was allowed to develop at a local level, which took to time to ensure that electronics would be properly handled in Scott County.

In conclusion for these reasons that I have given today, I believe that the Strategy Report and the Electronic Recycling Rules should be sent back to the committees for further work or rejected by the EPC.

(Handouts were given to the Commissioners from each presenter. Comments were also submitted in letter form from Joe Robertson, Marshall County Landfill Commission and Tom Hadden, Executive Director for Metro Waste Authority. Both were recommending to defer approval on the proposed strategy report until more time is spent on the issues raised.)

DEMAND FOR HEARING - HUMBOLDT COUNTY – JAY EDGE

Randy Clark, Legal Services presented the following item.

On November 6, 2003, the department issued a draft construction permit to Jay Edge, indicating a preliminary decision to approve a new wean – to – finish swine confinement feeding operation in Section 27, Corinth Township, Humboldt County, Iowa. On November 21, 2003, the department received a demand for hearing from Humboldt County. Humboldt County and Jay Edge and/or his representative have requested the opportunity to make oral statements. Pertinent documents relating to the demand and the departments and/or Jay Edge's response to it will be provided to the Commission.

The Commission is requested to review this matter and render a final decision by December 26, 2003, which is within 35 days from the date the department received the Board's demand for hearing.

Reza Khosravi presented the following information to the Commission:

The construction permit application for this new confinement feeding operation was received by DNR on July 31, 2003.

Because this facility is below threshold requirements and proposes to utilize formed manure storage structures, engineering plans or specifications prepared by a professional engineer licensed in the state of Iowa are not required. Briefly stated, the law requires that confinement feeding operations below threshold requirements be issued a construction permit provided that all of the following requirements are met:

- ° An indemnity fee is submitted.
- ° An approvable manure management plan and manure management plan filing fee are submitted.
- ° A construction permit application filing fee is submitted.
- ° A minimum of 440 points obtained from the master matrix.

- ° Submit a Construction Design Statement (CDS) that shows the proposed manure storage structure will be in compliance with current minimum concrete standards set forth in subrule 567 Iowa Administrative Code (IAC) chapter 65.15(14) for confinement feeding operations with an animal unit capacity of 500 animal units or more.
- ° Comply with the minimum separation distances requirements established in the Iowa Code section 459.202, 459.203, and 459.310

Humboldt County received the construction permit application documents from Jay Edge on July 30, 2003. The county then published a public notice in a local newspaper (Humboldt Independent) on August 7, 2003, as required in Iowa Code section 459.304 and 567 IAC 65.10(2), and as result received several public comments that were forwarded to the DNR. The DNR answered all of the public comments at the same time it issued a Notice of Intent to issue a permit (or permit draft) on November 6 2003 A copy of the DNR response to these public comments received and a summary of the comments as well as the permit draft are attached.

In support of its position that the DNR should not issue a permit to Jay Edge the Humboldt County submitted supporting documents (5 pages of demand for hearing and 12 attachments). The issues and the DNR's responses are summarized below A hard copy of the documents submitted with the demand for hearing by Humboldt County is also attached.

**REASONS PRESENTED BY HUMBOLDT COUNTY BOARD OF
SUPERVISORS FOR NOT ISSUING A PERMIT FOR THE PROPOSED
"JAY EDGE HOG CONFINEMENT" SITE, SECTION 27, CORINTH
TOWNSHIP**

Following are the issues presented by the Humboldt County in support of its position that a permit should not be issued:

- 1) Edge does not have enough master matrix points
- 2) Edge is underestimating the number of hogs he will raise per year
- 3) Further research needs to be done on Edge's nitrogen claims
- 4) Bass Creek drainage is only a mile from site
- 5) Edge does not own the land where the proposed site is located
- 6) Edge will be artificially lowering the groundwater table
- 7) East Branch of the Des Moines River is on EPA's Impaired Waters List
- 8) DNR's Overall Mission to Protect the Environment of Iowa

DEPARTMENT RESPONSES AND RECOMMENDATIONS

The following is a summary of the responses by the DNR staff and the DNR staffs recommendations regarding the above mentioned issues and concerns:

1) Comment #1: Edge does not have enough master matrix points: four items have been listed under this topic called 1A, 1B, 1C, and ID.

1A is about 25 points Mr. Edge received on the master matrix from the county for being an additional 250 feet farther above the minimum requirement of 1875 feet from the closest residence. Now the county claims that the applicant does not qualify for the 25 points because the site is not an additional 250 feet farther above the minimum requirement of 1875 feet from the closest residence. The Humboldt County claims that the total separation distance between the site and the closest residence is 15 feet too short.

This means that the site is 235 feet farther above the minimum requirement of 1875 instead of 250 feet.

1B: is about 25 points Mr. Edge received on the master matrix from the county for qualifying for the Family Farm tax credit. The Humboldt County claims that the applicant does not own the property so he is not qualified for the 25 points.

1C: is about 30 points Mr. Edge received on the master matrix from the county for the proposed confinement feeding operation being at least two times the minimum required separation distance from all private and public water wells. The Humboldt County claims that the applicant does not qualify for the 30 points because the wells have not been closed.

ID: is about 25 points Mr. Edge received on the master matrix from the county for the proposed watering system that significantly reduces manure volume. The Humboldt County believes that the applicant does not qualify for the 25 points until he can prove that the system actually reduces water usage by 20-30.

Response to comment #1: According to 567 IAC 65.10(5) the department must receive the county board of supervisor's comments or evaluation for approval or disapproval of an application for a construction permit not later than 30 days following the applicant's delivery of an application to the department. The Humboldt County received the master matrix on July 30, 2003. Within 30 days of the date the county received the master matrix, the county submitted the evaluation of the master matrix to the department on August 28, 2003. Mr. Douglas Wood, the Humboldt County Sanitarian wrote: "Although the site meets the minimum scores required in all categories, the Humboldt County Board of Supervisor's denied the application based upon citizens input". The denial of the master matrix was not based on the score given to the applicant by the county which was 485 points (40 points more than the minimum requirement to pass the matrix). Pursuant to Iowa Code section 459.304(4) the department is not authorized to reevaluate the scores given to the applicant by the Humboldt County unless Humboldt County recommends that the application be disapproved based on its evaluation of the master

matrix. It is our understanding that the master matrix is a tool for the county to evaluate the applications within 30 days of the receipt of the application. The Humboldt County had the obligation to utilize the master matrix to evaluate the application. It appears the county did not properly perform the evaluation and missed the opportunity to deny the scores to the applicant on a timely fashion if they believed that he was not entitled to receive those points.

Regarding item 1A, department staff have called the inspector from Field Office 2, Dale Adams, to find out as to how he measured the separation distance between the site and the closest residence. He replied that he used his car odometer because the range finder did not work. We have asked him to revisit the site and measure the separation distance again and report to us. The result will be reported to the Commission on December 15 when the topic will be discussed.

Regarding items 1B, 1C, and 1D, if the final construction permit is issued it will require Mr. Edge to implement the actions necessary to justify the master matrix score he has claimed.

Recommendation: This comment should not affect the issuance of the permit.

2) Comment #2: Edge is underestimating the number of hogs he will raise per year. Data from Iowa State University, Dr. Mark Honeyman, show that the industry average number of turns for facilities similar to Edge's ranges between 2.5-2.7 turns per year. Additionally, the MMP's from five facilities in Humboldt County with similar practices (wean to finish) to Edge's proposed facility indicate that 2.5 groups of hogs are produced per year in each facility. Edge is claiming that the estimated annual animal production will be 8,100 animals/year. His permit claims that the maximum number of animals confined at one time will be 4,050. This means that only two groups of hogs will be produced in his proposed confinement buildings each year. According to Honeyman, it takes about 150 days for a hog to grow from 10 pounds to a market weight of 260 pounds. If Edge only takes two groups of hogs through the building per year, that would leave nearly two months out of the year when buildings would remain vacant. We find this extremely hard to believe. We think that Edge will be producing 10,125-10,935 (2.5-2.7 turns) hogs each year, which is consistent with other Heartland Pork facilities in the area. Edge's permit application indicates that he will be producing 1,241,730 gallons of manure annually. Because he is underestimating the number of hogs that will go through the buildings, the facility will actually be producing 1,552,162 gallons of manure annually. In addition, his MMP is now outdated because he has changed his number of manure management plan acres from 612.3 to 434 acres.

Response to comment #2: Mr. Edge listed in his manure management plan (MMP) that the facility would have a maximum number of animals confined at 4,050 head. His estimated annual animal production is listed as 8,100 head. This is assuming 2 turns per year. Even if this estimation is low, the MMP did not use this number to estimate manure production.

According to 567 IAC 65.17(9), "The plan shall list the annually expected number of production animals by species." 65.17(9) also states: "Volumes or weights of manure

produced shall be estimated based on the numbers of animals, species, and type of manure storage used. The volume of manure may be estimated based on the values in Table 5 of Chapter 65." The manure production was estimated using the maximum number of animals multiplied by gallons of manure per animal space/day (from table 5) by number of days animals are confined. Mr. Edge used 4,050 head X .84 gal/animal space/day X 365 days for a total of 1,241,730 gallons of manure produced /year. The "demand for hearing" letter used Mr. Edge's 1,241,730 gallons that was estimated using 365 days and based their calculations on 307 days or 2 turns. By dividing Mr. Edge's total gallons by 2 turns and then multiplying that number by 2.5 turns, the letter stated that the total manure produced should be 1,552,162.5 gallons. This is incorrect as the initial gallons used were already based on a full year. Mr. Edge did not take into account for the time that buildings remain empty so his total gallons listed in the MMP may be more than the facility may produce. In addition, the maximum animal capacity and the maximum animal unit capacity (AUC) confined at one time will be incorporated as a provision in the final permit for enforcement purposes. The MMP was revised and submitted to the department on October 13, 2003 listing 362.3 acres. The revised MMP was reviewed and approved.

Recommendation: This comment should not affect the issuance of the permit.

3) Comment #3: Further research needs to be done on Edge's nitrogen claims.

According to Edge's permit application, the nitrogen content in the manure he will be spreading is significantly less than the industry norm, based on Iowa State University statistics.

50 lbs. of nitrogen/1,000 gallons of manure based on ISU.

38 lbs. of nitrogen/1,000 gallons of manure based on Edge's claim on his permit application.

Edge submitted a piece of paper from Hartland Agronomics to indicate that his manure would contain 38 lbs. of nitrogen/1,000 gallons of manure. DNR's Reza Khosravi said that those numbers had not been verified for the last 2-3 years. Before accepting Edge's nitrogen claim, further research needs to be done to ensure that Edge's predictions are correct. As indicated on Edge's MMP, he will not be rotating his crops on his MMP fields. He will only be growing corn. By not rotating between corn and soybeans, he can put the maximum amount of nitrogen on the land. Continuous corn production over an extended period of time is not a sustainable practice and can lead to increased use of chemicals to control pests. By approving Edge's MMP, the DNR is putting the land included in the MMP at risk. This is inconsistent with the DNR's overall mission to protect the environment and natural resources of Iowa and Iowa Code 455A.2.

Response to comment #3: The Iowa Code Section 459.312 states that manure values be determined by standard tables or by testing. According to 567-IAC 65.17 the testing shall be determined by a laboratory on manure from structures with similar design and management. In the footnotes of the MMP forms the IDNR requires identifying the source and submitting the lab reports or summary of sampling results. Jay Edge provided

the IDNR a summary of manure analyses from 26 wean to finish barns that were taken in April of 2003 and the values were determined by Minnesota Valley Testing Lab in Nevada, Iowa. The nitrogen values ranged from 16 to 48 with 38 pounds per 1000 gallons as the average. The ISU data comparison used in the "demand for hearing" letter is for grow to finish facilities using a dry feeder system. Mr. Edge's proposed site is wean to finish facility using a wet/dry feeding system. ISU is currently revising and lowering their nitrogen (N) values for wet/dry feeder systems with grow to finish facilities by approximately 33. Currently there are no table values for wean to finish facilities, however, ISU is addressing this and the N values appear to be lower. The cropping pattern of continuous corn that would allow "maximum amount of nitrogen on the land" is acceptable. According to Edge's MMP, corn following beans will have a remaining N of 154.3 pounds/acre. If manure were to be applied for soybeans, the remaining N would be 170.6 pounds/acre. Continuous corn will have a remaining N of 199.2 pounds/acre. This is based on a corn yield of 166 bushel/acre for the Humboldt County from the 1998-2002 Iowa Agricultural Statistics.

Recommendation: This comment should not affect the issuance of the permit.

4) Comment #4: Bass Creek drainage ditch is only a mile from site.- Bass Creek is a major drainage area. Drainage contours show that if a manure spill were to occur, pollution from his site would go north to Indian Creek or south to Bass Creek. Photos indicate numerous tiles and that the region is a major wet area. The ditch also has six culverts four of which draw water from the north (where the site is located) and can drain water from up to a total of approximately four square miles. Surface water from this area eventually drains to the Des Moines River south of Humboldt. Edge's close proximity to Bass Creek drainage ditch could violate Iowa Code Section 455B.201 and Iowa Code Section 455E.3(1).

Response to comment #4: Humboldt County asserts that Bass Creek is a "water source", is located about one mile from the proposed operation site and expresses concern that any manure spill would reach this stream. Assuming for the purpose of this response that Bass Creek is a "water source" as defined in Iowa Code section 459.102(48), Iowa Code section 459.310 prohibits constructing a confinement feeding operation structure closer than 500 feet. Clearly, this statutory provision does not prohibit construction of the Edge facility. However, other statutory provisions prohibit discharge of manure to water of the state and Mr. Edge will be responsible for operating the facility in a manner which does not violate that prohibition.

Recommendation: This comment should not affect the issuance of the permit.

5) Comment #5: Edge does not own the land where the proposed site is located. Iowa law requires the owner of a large-scale confinement to own the land where the facility is located. According to 567 IAC 65.9(1) (a), owner means "the person who has title to the property where the animal feeding operation is located or the person who has title to the animal feeding operations structures. It does not include a person who has a lease to use the land where the animal feeding operation is located or to use the animal feeding operation structures." Edge does not currently own the land where the proposed facility

will be located. Instead of buying the property, he submitted an "Offer to Buy". Nowhere in the Iowa Code does it indicate that an "Offer to Buy" is legal.

Response to comment #5: We asked Mr. Edge the following question which is basically the same issue that the Humboldt County is bringing up:

A question has been brought up by the opponents of this project that the proposed site is in a family trust and has not been transferred to Mr. Jay Edge. Pursuant to the 567 Iowa Administrative Code(IAC) 65.9(1) "a" it is required that the "owner" of the confinement feeding operation sign the construction permit application documents. The 567 IAC 65, also defines "owner" as the person who has title to the property where the animal feeding operation is located or the person who has title to the animal feeding operation structures.

The definition of "owner" does not include a person who has a lease to use the land where the animal feeding operation is located or to use the confinement feeding operation structures. Therefore submit to this Department documentation that shows that Mr. Edge is the owner or had acquired the property where the confinement feeding operation is being proposed. Or, if Mr. Jay Edge is planning to buy the property upon the issuance of the DNR construction permit, you may submit an agreement between the current property owner and Mr. Jay Edge, granting the rights to buy the property, if a construction permit is issued. Failure to provide requested documentation may result in a denial of the proposed construction permit.

In response to the above question, Mr. Edge submitted an "Offer to Buy" and the Department accepted that. Historically, the Department allows the option of "Offer to Buy" to the potential owners of an animal feeding operation structure, if the construction permit is issued. We informed Mr. Edge that we are not going to issue a construction permit to him if he does not own the land and/or does not provide documentation that he will own the land after the permit is issued. Mr. Edge understood that and submitted the necessary documents.

Recommendation: This comment should not affect the issuance of the permit.

6) Comment #6: Edge will be artificially lowering the groundwater table. Edge will be building in an area with a high water table, based on a letter from Edge to Khosravi dated November 5, 2003. By installing a device that artificially lowers the groundwater table, there is a greater chance for negatively impacting the environment. Installing tiles could provide a conduit for manure basin seepage to flow directly to the tiles and then could pollute nearby water sources. Allowing Edge to artificially lower the groundwater table means risking contamination—a risk local residents don't want him to take.

Response to comment #6: For all submitted projects we ask the applicants to clarify that they either hire a professional engineer to determine the average annual high water table or install a tile drainage system or other permanent system for artificial lowering of groundwater levels, if the construction permit is issued. The Department requires this according to 567 IAC 65.15(7)"b" which states: "For formed manure storage structures partially or completely constructed below the normal soil surface, a tile drainage system

or other permanent system for artificial lowering of groundwater levels shall be installed around the structure if the groundwater table is above the bottom of the structure."

Contrary to the Humboldt County's views the tile system will not cause surface water pollution; its installation is required to prevent groundwater pollution. The pressure from groundwater above the bottom of a concrete tank could cause cracking of the concrete when the tank is empty. Therefore, it is important that groundwater be lowered to below the bottom of a concrete manure storage tank so cracks, from which manure could leak, do not develop. In addition, the outlet of the tile drainage system can be monitored to verify that there is no leakage from the tank.

Recommendation: This comment should not affect approval of the permit application.

7) Comment #7: East Branch of the Des Moines River is on EPA's Impaired Waters List. According to the DNR's 2002 303(d) list of impaired waters, the East Branch of the Des Moines River is impaired with bacteria and identified by the EPA and the DNR as a "high" priority water body. This means that the state considers it a good candidate for water body rehabilitation. Allowing the construction of another factory farm near the Des Moines River could result in more pollution; this is inconsistent with DNR's overall mission and Iowa Code 455A.2.

Response to comment #7: As noted in item 4, above, construction and operational prohibitions are not synonymous. The Department does not have the authority to prohibit construction of a facility which satisfies all statutory and rule criteria pertaining to construction, but does have the authority to pursue enforcement action regarding the operation of facilities in a manner that results in discharge of manure to water of the state.

Recommendation: This comment should not affect the issuance of the permit.

8) Comment #8: DNR's overall mission to protect the environment of Iowa. In 1989, Larry Wilson, then Director of the DNR, denied a factory farm permit application to Premium Standard Farms. The letter states that Section 455A.2 of the Iowa Code "charges this agency with the primary responsibility for state parks and forests, protecting the environment, and managing energy, fish, wildlife, and land and water resources in this state. This general duty requires that decisions of the Department be made in consideration of all programs and responsibilities under our jurisdiction." The letter also states that the DNR "must look beyond the minimum requirements of any individual program." In addition, Wilson wrote that, "minimum design and operation criteria, particularly minimum separation distance requirements, do not provide a degree of safety and protection against such negative impacts commensurate to the size and degree of potential loss of resources and public harm which could result from those negative impacts."

Response to comment #8: Humboldt County cites the Department's 1989 permit denial

regarding Premium Standard Farms in support of its assertion that the Department has the authority to deny a permit application even if all minimum criteria are satisfied. The cited example involved unique circumstances involving the proximity of the proposed facility to a heavily-used state park. While it is understood that everyone considers his or her own "backyard" as worthy of special protection, the Department concludes that the proposed location of the Edge facility does not prompt the degree of concern necessary to warrant the extraordinary action taken in the Premium Standard Farms matter.

Recommendation: This comment should not affect the issuance of the permit.

WHEREFORE, the Department asserts that it intends to issue a permit to Jay Edge because all applicable statutory and rule provisions have been satisfied and, therefore, the Department's decision to issue a permit should be affirmed.

Kay Kollmorgen, Chairperson of the Humboldt County Board of Supervisors gave a brief on the events preceding this hearing. On October 25th, 2003 the Supervisors held a public hearing on the Jay Edge permit. On November 7th, the DNR voted to issue a temporary permit to Jay Edge. On November 17th, the Board of Supervisors held another public hearing. The Board disagreed on the issuing of the permit by the DNR with a vote of 4-1 and questioned a hearing before the EPC. There are many residents from the housing development represented here today. They would be affected from this confinement. This group of concerned citizens have asked Tom Lipps from Algona to speak on their behalf.

Tom Lipps, Attorney from Algona represented the neighbors of the Edge facility. The neighbors of the facility take the position that the DNR's decision to issue the permit is incorrect and we would ask that this Commission reverse the issuance of the temporary permit. The policy reasons for why I submitted is that this permit was incorrect and the legal reasons. The purpose of this Commission is to protect the Environment. It seems that when there are confinement disputes usually it's a site selection that drives the dispute and controversy. I submit that the site selection is faulty.

This is a 4,000 head confinement and it will generate the same amount of manure as a town of 12,000 - 20,000 people. Humboldt has about 5,000 people. This facility will generate three times the amount of manure for the city that will be affected. South of Humboldt there is a suburban area, a small golf course, high end houses on both the east and west side of the road. The town of Humboldt is growing a lot. There are about 820 people that will be affected by this facility. This would be an ongoing controversy if this facility is built here. I submit that this Commission would be doing these developers a favor by doing a mercy killing on this thing and putting it to bed. I don't know how they could build this and make it work with this number of people complaining.

The school is located south of Humboldt. There are about 500 kids at the high school, 82 at the care center and 205 residents close by. I have a letter from both the nursing home and the school stating their concerns. (both letters were given to the Commissioners)

Another thing about this is that there are no regulations on air pollution. These facilities are suppose to be state of the art. They are state of the art for economic purposes for maximizing profit but they do not do anything to reduce air pollution.

Usually what drives a controversy to a site selection is that it is too large or too near a suburban area. I believe that we have a little bit of attitude from the developer as far as "I'm going to build it no matter what." Looking through the materials you will see that. If he does not get to build, then he's going to spread some other kind of manure in the area. Is that the type of developer that you want to turn this facility over to?

I believe that there is plenty of public concern on why you should turn this thing down. It's a bad area to build a confinement. It's not worth it to build this facility and produce one half time job, therefore jeopardizing what's good in the area. Those are the public policy reasons to why it should be turned down.

There are also some legal reasons to why this should be turned down. Concerning the Master matrix, I think we need to subtract 105 points. When you are well below 440, the permit should be rescinded. The first thing was the distance. It's clear that the confinement is too close to a neighbor. The owner admits that he does not own the property, therefore he does not qualify for the Family Farm tax credit. There is a well that hasn't been capped. Also the technology, there is a claim in here that isn't really supported by anything other than a statement that says that they will use less water and they should get points for that. There really is no scientific evidence of that in here. The neighbors did submit scientific evidence for how facilities of this magnitude effects the neighbors air pollution as well as other problems.

Another objection that the neighbors have is the ownership issue. I think that's pretty curious. If you're going to subdivide a piece of property, you have to show that you actually own the property. An attorney has to give a title of opinion to the zoning board or county board saying that John Doe owns this property. I find it surprising that the DNR does not have a similar requirement. Mr. Edge indicates that he has an offer to purchase. Maybe he does, but we have no proof that they own the property either. If you were sub dividing it, there would have to be some proof. Another thing I find to be curious, on the Offer to Buy is number 14, buyer may at his option, assign this Offer to Buy to a third party. Why would you have that in there? If he is going to have the right to sign this, he needs to be the operator.

A gentleman named Larry Lang has a high quality hay business. It is just North of this confinement. He has a special ventilation system set up to preserve the high quality of the hay. He's concerned that the odor will penetrate into the hay and affect the marketability.

Larry Lang, Lane Farms Inc., Humboldt, Iowa expressed his concern about the quality of life, odor, and water quality and diminished value of our homes and farm property.

A significant part of our diversified ag business is commercial hay production for horses. This high quality hay is baled into small square bales and stored on our farm. During the storage of the hay, we install an air system throughout the stack of hay to ensure that we maintain the highest quality possible. The air system allows fresh air to be distributed through the hay. Once the hay has absorbed these odors, it is impossible to remove them.

We have worked several years to establish this business. We have many customers that come back year after year and drive many miles to purchase hay from us because of the quality. We also ship to Florida and Colorado.

If this hog confinement project is approved and constructed, it could put an end to our business. We would suffer from economic loss to our families diversified agricultural business.

Kay Kollmorgan expressed that the main concern of the Commission is to protect the environment. I'm not necessarily against hog confinements but I am against the fact that they are so close to beautiful housing developments that I believe will cause a loss in value and a lot of neighborhood problems.

Charles Anderson, representing the Humboldt Community expressed his concern for the Care center. My wife and I visit the care center once a week. The Care Center is about three miles away from this operation and a mile away from where the manure will be spread. The Care Center people sit outside in the summer time to enjoy the fresh clean air. I'm afraid that this could become a real problem with our elderly.

Mel Berryhill a well driller from Humboldt County gave an update on the water quality within the County. In the 1960's, the nitrate levels were very high. A justification for the wells is so that water will drain so farmers can farm it. On paper they have done everything right to get the permit, but I think that you should really re-think the consideration of this permit.

Kay Kollmorgan said that now is the time that the Commission should turn down the hog confinement.

Jay Edge, third generation farmer from Humboldt said that his farming operations consist of a small cattle feedlot where I live and farming of approximately a 1,000 acres. The site that I'm proposing is a good site. It sits over 500 feet off the road in the middle of a field. It would be over 2,125 feet from the nearest neighbor located west of the site. It scored well on the Master Matrix. I plan to plant trees along three sides of the site to help eliminate odor concerns. There have been some affidavits sent along with the county appeal papers. Some of the statements are not correct and there are two sides to every story. I have said some things to some people that I should not have ever said after being personally attacked and criticized. I do apologize.

Brent Rastetter said that the County already had their opportunity to review the Matrix scoring, but to my knowledge did not contest the matrix score during the thirty-day

review. However, I will clarify a few points they wish to contest. It is poorly stated in the design operating construction plans submitted with the permit application that a certified land surveyor will be used to confirm a minimum separation distance greater than 2,125, that's the distance where we took extra points to the closest neighbor. This distance can be easily obtained. Jay can also push further out into the field to get the distance.

I stated that there are two wells that need to be abandoned, it was stated in the permit application that they will be closed by a certified well driller. Those twenty-five points should be counted also.

Stated in the permit submission, wet-dry feeders or water accounts will be installed in the facility. A manure plan being constructed using representative samples of the same systems installed in other facilities. A credit of twenty five points for the matrix system is correct. The site scores enough points to qualify under the matrix guidelines.

The state calculates facility sites based on animal unit capacity. The animal unit capacity for this facility is a maximum of 620 animal units as turned in, the equivalent of 4,050 finishing animals. The manure plant is built accordingly. The number of animals raised in the facility has not been under estimated.

Regarding the Offer to Buy, none of you sitting here today would probably go out and buy the land not knowing whether or not you will receive the permit, unless you had a contingency to get out of the purchase. If Jay purchased the land and did not receive the permit, it would be worthless to him.

Unfortunately, we have many waters in the state are listed as impaired, it has been well documented that animal waste does not degrade away like commercial fertilizer. It is very unfair to say that the 4-6% of the agricultural land receiving animal nutrients are causing the water quality issues in this state especially since this is the only type of fertilizer in the state that is regulated.

I urge you to affirm the issuance of this construction permit that the DNR has issued a draft of. Most of the residences that we are referring to are over two miles away from the site.

The state has set forth requirements for dealing with ag drainage wells in both sitting and in application. There is not an ag drainage well to our knowledge. We have some County guidance in confirmation that we never heard anything back from them. That was stated in our permit application.

Dick Nave, retired farmer from Humboldt said that Jay Edge is a good farmer. They do a great job with livestock. As a retired livestock farmer, I think we need to encourage young people in Iowa to have livestock facilities. If we hinder this, we won't have any livestock. As a grain and soybean farmer, there will not be a market. We need young people into agriculture.

Ron Reedy, Humboldt County spoke about the Edge family. The Edge family have always been the pillars of the community. They have strived in the 4-H industry. Jay needs to be able to continue on in the livestock industry.

(A newspaper article on the Edge family was passed out to Commissioners. A copy can be found in the Department's Record Center.)

Doug Adams, Humboldt County Farm Bureau President said that Jay has meet the Master Matrix. The Master Matrix is significantly stricter than current state law. I have lived in the area my whole life and I am a third generation farmer. I have six building sites and hog finishing sites within a two mile radius from my farm. I rarely if ever notice any odor from a lagoon that close to me. The closet hog finishing site that I have is a quarter to a half mile from my farm. Once in a while on humid days, that odor does carry but not to the extent where we can not be outside or get sick. Agriculture is important to Iowa's economy and I feel that we should support our livestock producers.

Brent Rastetter said for the hay business run by Larry Lang to be effected, that would be a real stretch of the imagination.

Jerry Peckumn asked Kay Kollmorgan if they County approved the Matrix plan in the beginning?

Kay Kollmorgan said yes, however the Matrix in my opinion is not that hard to meet. I don't think it is a true test of a good Matrix.

Jerry Peckumn said that apparently the County checked the scores on the Matrix and didn't contest them. Am I wrong about that?

Kay Kollmorgan said at that time we did not. We gave it to our chairman who handles that sort of thing and it didn't get done in time. Some of the residents brought it to our attention and it was too late to challenge it. It was overlooked.

Tom Lipps indicated that there was an application for permit and the board is entitled to on what Mr. Edge puts on his permit application. As we've indicated we think there are several things wrong. The board should not have to go out and investigate, they are entitled to rely on the permit application and apparently what is wrong is that the distance figures are not right. Rather than relying on an odometer, there should have been a survey. There are several other things that are wrong too. There is a general rule of law that if a decision was made correctly, even if for the wrong reasons, it's going to stand. The bottom line is that the board asked that this permit not be approved, even though they may not have set out all the reasons, I think that that decision is entitled to stand.

Darrell Hanson asked if the county has no obligation to do anything other than check the arithmetic to make sure that the numbers add up, what is the purpose under the statute of the county having thirty days to look at that and approve it or not.

Tom Lipps said that the county board is entitled to rely on what the applicant says. It's the burden on the applicant to show that he has filled it out. We found out later that it was not filled out correctly and I think it's the Commissions job to correct that.

Darrell Hanson said that we shouldn't get the idea that the only responsibility of the County is to add up the matrix numbers and send it in.

Tom Lipps said that the Matrix is a new system. Ideally the County should have gone out there and investigated all of these things but they are still learning how to do it. The first hearing was on August 25th and the board voted 4 to 1 to submit the permit to the DNR. Our concerns are air and water pollution and property devaluation. I don't think it's reasonable to assume that a citizen can come in and say that the Matrix wasn't filled out right. Citizens don't understand that as well as county boards. In all due respects the Environmental Protection Commission may not understand it either.

Jerry Peckumn said that the offer to buy includes six acres of land. I talked with your County assessor and in order to apply for the family farm tax credit, you must have at least 10 acres.

Jay Edge said that the farm is apart of the family and its in the trust. It's willed to all of the five children.

Jerry Peckumn asked why Jay included the clause that the buyer may at his option assign this Offer to Buy to a third party.

Jay Edge said that he has no intentions of selling this operation to a third party. I just filled out the standard form. If there will be a hog site there, it will be mine.

Donna Buell expressed that the standard form is not significantly a legal document for title to the property. This is not even an agreement with the current property owner. This is reason enough for denial.

Randy Clark said that we want to make sure that they submit documentation stating that they will be able to buy the property if they are issued the permit. We don't want to be in a situation of going through the process if they have no way of getting the property. It would be a waste of everyone's time.

Lisa Davis Cook expressed her concern that the property must be owned before a permit is issued according to the Iowa Administrative Code. Is the document good enough for title?

Mike Murphy said that if a permit is issued and they don't get the title of ownership, then the permit is no longer valid. The document is not good enough for title, but it is good enough for our interpretation to show that they have the ability to obtain title once they get their permit.

Brent Rastetter said that no bank will loan money on a project unless he has clear title to the land. It's not like he's going to get this permit and proceed without owning clear title. The family attorney is Mark Ahrens from Humboldt.

Tom Lipps said that there is no legal description of the land that Jay Edge plans to buy, other than it's in a certain section. If you approve this today, before we leave this building we could assign this to someone else. That shouldn't be in there.

Jerry Peckumn mentioned that this building has slotted floors where manure drops into a pit. How is the building ventilated?

Brent Rastetter said that there are pit vents that take up the minimum ventilation. There are additional wall vents and curtains can also be dropped.

Jerry Peckumn said that there are points on the matrix for a covered manure storage. Does a ventilated manure pit qualify for covered manure storage?

Reza Khosravi said that we have accepted that.

Jerry Peckumn asked if they installed a drainage tile around the building. Somebody is required to monitor it for potential contamination.

Reza Khosravi said that if it goes onto someone else property, they have to do the monitoring to shut it out. If it's on his own property they don't have to, unless the DNR specifically asks. The CAFO owner is responsible for taking samples, but the DNR can go at anytime to check if they feel there is a problem.

Darrell Hanson asked if someone claims 485 points on the Master Matrix, are they held accountable to fulfill whatever points they claimed even though they exceeded the minimum amount of 440.

Reza Khosravi answered yes.

Jerry Peckumn asked Kay Kollmorgan if he was aware of any ag drainage wells on the property where manure would be applied to. Where would this property drain to?

Kay Kollmorgan said that he is not aware of any drainage wells.

Jay Edge said that part drains North to Indian Creek and a small portion goes to the Southeast. Nothing drains to a well. It's all private tile.

Tom Lipps said that it makes sense that the applicant should be required to fulfill all of the Master Matrix points that they claim.

Jerry Peckumn made a motion to deny the permit due to doubts about whether or not Jay Edge will own the property at the end of this and whether or not he actually meets all the Matrix points. Another concern is about the covered manure storage and if the pits needed to be ventilated. It does not meet the Family Tax credit. Seconded by Francis Thicke.

Darrell Hanson explained his frustration about the appeal based on certain, defined objections. The Department researches and prepares their response to those objections. We come to the hearing and the Department explains their decisions and responds to the written objections and the reasons for the hearing. Then we get other arguments that were not in the record. There isn't a chance for the Department to respond. This is probably one of the best hearings, this is just a frustration of mine. Personally I will not vote against this, but I'm open to modifications regarding the different issues that were addressed.

Jerry Peckumn said that there are some question on whether Jay understands how the application should be put together. I know he apologized today for telling people that he would spread manure south of their house if he didn't get his way. That to me is an indication of some irresponsible action. If we are going to have livestock in Iowa, we have to think about how it will affect our neighbors.

Kathryn Murphy called for the vote on the motion to deny the permit.

Roll call vote went as follows: Jerry Peckumn – aye; Lisa Davis Cook – aye; Darrell Hanson – nay; Heidi Vittetoe – nay; Donna Buell – aye; Terry Townsend – aye; Francis Thicke – aye; Kathryn Murphy – nay. Motion carried to deny the permit.

PERMIT DENIED

PUBLIC PARTICIPATION

RICHARD LEOPOLD, Executive Director of the Iowa Environmental Council. I am here to endorse use of the maximum allowable set aside funding for source water protection, in conjunction with other presentations today that justify this request

My focus is on the transfer of funds issue on page 31 of the. Intended Use Plan. According to the DNR, \$16.8, million in pollution control funds have been transferred to drinking water infrastructure funds because "demand for Clean Water SRF funds has historically been less than "expected" and "this situation may occur again in FY2004."

This plan will allow the Department's future ability "to transfer, up to 1/3 of new EPA pollution control grants (perhaps \$11 million)."

The Council believes the Department of Natural Resources has the ability to generate the demand for clean water loans. For example, the Legislature authorized 4 new staff for administration and outreach to generate new demand for clean water loans. Another funding source could stem from the over four million dollars available for program administration through the Clean Water SRF Intended Use Plan dated September 15, 2003. These funds could support more outreach to potential borrowers-if needed, and there are many Iowa volunteers already available to help generate clean water projects.

The recent opening the Clean Water SRF to non-point source pollution control loans and for adding staff to promote the various loan programs are positive achievements. However, that by itself doesn't assure enough loan applications. One suggestion might be formally requesting a performance plan for marketing and outreach so "excess SRF fund" never again becomes an issue with EPA.

I understand the need for flexibility in transfer options. However, we should be able to say to volunteers and legislators that every dollar of pollution control money to DNR has been used and being put to the best possible use.

I ask that this Environmental Protection Commission take maximum advantage of the set-asides allowed for source water protection. I recommend keeping doing so until the Drinking Water SRF has funded at least \$16.8 million in pollution prevention efforts. Such actions would strengthen the relationship the Department has with the public, and build even more credibility as an organization.

DUANE SAND, Iowa Natural Heritage Foundation said that he is not sure if each one of the Commissioners has been informed that the EPC is the equivalent of the Board of Directors for one of Iowa's largest banks. You set the rules and policies for over \$615 million in assets. When you adopt rules and approve Intended Use Plans for your Clean Water and Drinking Water SRFs, you determine who gets money and for what purposes. Most significantly you get to choose who gets public subsidies and what benefits the public gets for creating and capitalizing the SRFs.

You could choose today to make a \$6 million dollar investment in pollution prevention to protect public wells, reservoirs and rivers. You could choose today to invest in wellhead protection that will have multiple public benefits including less nitrate contamination of drinking waters. While DNR staff comments say source water protection has merits at some future time they discourage investing in pollution control with this plan.

The current policy of maximum infrastructure funding and minimum pollution control funding from Safe Drinking Water Act funds was established in 1997. In 1997, there was a different Governor, a different commission, different top management at DNR and a different economy. In the last six years, many things have changed. Interest rates on municipal tax-exempt bonds have fallen below 5, the lowest interest rate since the 1960's. The courts have ordered DNR to follow a compliance schedule for establishing

Total Maximum Daily Loads for impaired waters. Governor Vilsack has asked you to clean-up impaired waters by 2010. Also, EPA now expects you to set nutrient standards for surface waters and this will rapidly expand the list of impaired water bodies. In addition, state general fund support for DNR has failed to keep up with inflation, has generally declined for over the last four years and is greatly threatened again next year. These changes provide ample reason to reverse the 1997 policy and now put 20 of your EPA capitalization grants into pollution prevention.

The staff recommendation is not to change policy without stakeholder support. I believe the Water Summit recommendations provide proof of stakeholders support now. I served on the current programs committee along with Lyle Asell of DNR, Mike Tramintino of the Iowa Finance Authority and Linda Kinman of the Iowa Association of Water Agencies. Representatives of Farm Bureau, Iowa Citizens for Community Improvement, Rathbun Regional Water, Association of Business and Industry, Iowa Department of Agriculture and Land Stewardship and Monsanto Corporation also served for about 40 hours of discussions. One of the consensus recommendations is to better use the commission's set-aside options to fund source water protection. Another 50 people who discussed SRF programs at the Water Summit concurred with this recommendation.

Your stakeholders go far beyond the water utility managers and consulting engineers who work daily with your SRF staff. We believe you can put the maximum allowable dollars into source water protection and have no negative impacts on water infrastructure. You have leveraged the EPA grants to issue additional state bonds to fund all projects in recent years. If leveraging is not prudent some year, you simply need to deny low scoring applications. Few projects have a public health impact. Much of the infrastructure work you are funding is system expansion driven by population growth and speculation on economic development, and cities can finance that without your additional subsidy.

Iowa Natural Heritage Foundation and others are strongly advocating for effective use of current funds to clean-up Iowa's waters. It is the obvious place to start before any of us can ask for more public support of additional funding.

It is time for you, The Banks Board of Directors, to allow and encourage maximum pollution prevention funding for source waters beginning in 2004.

(A letter of Duane Sand's comments can be found in the Department's Record Center.)

ROGER WOLF, Iowa Soybean Association said that he is in support of expanding the use of Safe Water Revolving Loan fund program. ISA's programming is intended to compliment other partners goals and missions, specifically to add value to farmers as they try to become better business people and achieve environmental performance. I wanted you to be aware of ISA's partner of leadership programming and to encourage the EPC to adopt rules allowing the state investment of clean water and drinking water

SRF funds. The DNR through the EPC has an opportunity to capitalize on these new opportunities. I encourage you to take a look at the 2002 Farm Bill, where we are seeing a significant increase in conservation incentives. These new incentive programs can be packaged, promoted and utilized to address Iowa's water challenges. The use of SRF funds could place a significant role in making the programs accomplish much more than just directly to farmers.

MEL BERRYHILL, Milford, Iowa has been involved with the Clean Water Alliance in Dickinson County for over 12 years. I am in support of The Drinking Water State Revolving Fund Intended Use Plan. This will impact Iowa and involve a partnership with Jackson County and Minnesota because the watershed does go up that far.

TARAH HEINZEN, Sierra Club commented on the proposed Total Dissolved Solid standard change that will be up for decision next month. The DNR's proposed change to the TDS standard of 750 mg/l for general use waters to site specific approach with a TDS from a 1,000 mg/l coupled with a negotiable unlimited feeling and a chloride standard of 1,500 mg is nothing short of backpedaling on one of two numerical standards protecting 83% of Iowa's River and Streams. Those designated for general use. Even if the chloride standard of 1,500 mg/l were adequate to protect general waters for aquatic life and beneficial uses, this number is completely arbitrary and makes no sense in the context of the rest of the proposal. We should not be setting standards and guidelines with the intention of ignoring them or making exceptions. We should not be setting guidelines and standards that contradict one another. This proposed chloride standard would make no sense even if it were adequate, but it isn't. The 1,500 proposed standard did not come from scientific or agriculture literature. The existing TDS standard of 750 mg/l protects all of Iowa's general use waters for the beneficial use of wildlife. The Federal Clean Water Act mandates that all states move toward achieving zero discharge of pollutants. The proposed changes in Iowa's TDS standard to a site specific approach that would make regulation and enforcement virtually impossible. I think you should vote to reject this proposal. The Sierra club would like to see the EPC vote for hydrogen sulfide standards that will protect Iowan's health.

MIKE TRIPLETT, representing the Iowa Association of Business and Industry asked the EPC to delay consideration of the Petition until January. We would like to reschedule the meeting as there are significant methodology questions regarding the odor study that have not been addressed.

There are two main points we would like to make today. First, the proposed hydrogen sulfide standard is not supported by any standards setting organization or agency as protective of public health and is not based on the best scientific information available. Second, the monitor location as outlined in the field-sampling manual is inappropriate because it allows the monitoring trailer to be closer to the livestock operation than the residence.

First, as discussed last month, the University of Iowa/Iowa State Report recommendation was based on the Centers for Disease Control (ATSDR) screening levels. The data collected by the DNR this past year now shows that the University Report did not use the appropriate screening levels from the CDC (ATSDR) when

making their recommendation. We now know that their analysis was flawed in at least two critical respects.

As you know, the level of exposure to a substance in ambient air that may present a health risk is a function of two components - the level of the substance in the air AND the duration of exposure. Both of these factors must be taken into account when determining a health standard for ambient air - yet the focus has been almost exclusively on the concentration of the substance in the air.

The University Report recommendation halved the chronic screening level from 30 ppb to 15 ppb because it assumed that ammonia and hydrogen sulfide were present in equal concentrations at the same time. A review of the swine air monitoring data from the confinement sites data shows this is not the case. In fact, there is no apparent correlation from the data as to the presence of hydrogen sulfide and ammonia. Further, since the department is only establishing a health level of one gas and not both, it is inappropriate to reduce the hydrogen sulfide level as if levels for both gases were being established.

The Universities Report also assumed that exposures to hydrogen sulfide were continuous, 24 hours a day, 7 days a week, without any basis cited in the Report for making that assumption. However, as the monitoring data now clearly demonstrates, any exposures are short term, appearing for 1-3 hours at a time. Because exposure is not continuous, it is inappropriate to use the CDC's (ATSDR's) chronic exposure number which was set assuming 15 to 364 days of continuous exposure. We do not see 24 hours of continuous exposure, let alone 15 to 364 days.

The CDC's (ATSDR) explanation of their minimum risk levels (MRLs) says that these "MRLs are intended only to serve as a screening tool to help public health professionals decide where to look more closely." "Exposure to a level above the MRL does not mean that adverse health effects will occur." It should also be specifically noted that ATSDR minimum risk level values are set with significant margins of safety that are designed to be protective of the health of the most sensitive populations. Despite this fact, the Report recommendations still recommended halving the chronic number.

Although the Iowa Air Quality Coalition has not endorsed a specific health level, if the EPC is to follow the directive of the Universities by using the CDC (ATSDR) screening levels, the appropriate use of these numbers would be for purposes of a study only and to

either use 70 ppb over a 1-14 day average or use 30 ppb over a 15-364 day average. Any other number is inconsistent with the CDC's (ATSDR's) current recommended screening levels.

CHRIS GRUENHAGEN, representing Iowa Farm Bureau said that the second main issue the Coalition is concerned with is the allowed monitor locations. We support the DNR's current definition of separated location because it is now consistent with Iowa law. However, the DNR staffs proposed sampling manual then strays from the legislature's intent by allowing the monitors to be located 100 – 300 meters from the separated location.

Doing the conversion, monitors may be located between 328 and 984 feet of the residence. This could put the monitor on the livestock operation's property and at minimum closer to the operation than the residence. (See map) Older livestock operations, which the department seems to be focusing on, have separation distances starting at 750 feet from residences or 1250 feet for lagoons. Simple math tells us that the monitors could be located halfway between the facility and the residence and closer to the livestock facilities than the residence.

The Coalition's proposal is reasonable, more consistent with the intent of the legislation and is consistent with EPC monitoring protocol. Our language can be found in Exhibit A of our petition at rule 28.2(4). It allows the monitor to be located between two and four times the distance of the house but not closer than the required separation distance. The purpose of the study is to determine whether there are health effect levels at the required separation distances. It will be impossible to make this determination if the monitors aren't located at the separation distances.

The Iowa Air Quality Coalition supports finding out more information about hydrogen sulfide emissions. We support the establishment of an adverse health effect level - but one that specifically looks at both the level of a pollutant AND the duration of any exposure. However, we do not support the establishment of a health effect level that lacks a scientific basis. If the EPC chooses to follow the CDC health levels as the Universities recommended, the level should reflect the duration of exposure and the numerical screening level indicated by the CDC. And, the monitors should be located at separated locations at the required separation distances, not halfway or closer to the livestock facility to find out the information requested by the legislature.

Center for Disease Control (ATSDR)

Minimum Risk Screening Levels

	Acute (< 15 days)	Intermediate (15-364 days)	Chronic (>365 days)
HiS	70ppb	30ppb	N/A
NHs	1700-ppb	300 ppb	300 ppb

CARRISA LENFERT, Iowa Citizens for Community Improvement expressed her concerns about CAFO owner Gary Wiese and his violations. Operating as a qualified operation without installing additional waste treatment, which was required by law clearly gave Wiese an economic advantage over his competitors. The DNR has not clearly stated how they are moving forward with this matter. We are asking the EPC members to enforce environmental laws on the book by telling the DNR to not grant in unity to Gary Wiese for this violation under Iowa Administrative Code 567 Chapter 12.4(2)c and to proceed with stiff enforcement action.

GEORGE NAYLOR, representing Iowa Citizens for Community Improvement said that there are three basic suggestions that we feel should be changed in the proposed rules in construction design standards. Currently the proposed rule requires a minimum of 5 foot

vertical separation distance in the floor of the structure and the surface of soluble rock. However, the proposed rules allow an exception and a determination by a professional or NRCS engineer. We don't feel an engineer has the capability of making such a determination. Secondly, many of the recommendations can be disregarded if a professional or NRCS engineer designs or approves the plans. It says that it will allow for a more flexible site specific design and industry based standards. What assurance can the DNR provide that these standards are in fact what they say. Third, currently the proposed rules addressing carst areas state that groundwater monitoring shall be performed as specified by the department. The proposed rule amendments should require monitoring wells for all below ground manure storage structures in carst areas. Monitoring wells will provide detection of any leaks caused by insufficient construction problems. The DNR has the authority to require monitoring in order to protect groundwater in carst areas and should do so.

WENDY WINTERSTEEN, from Iowa State University, College of Agriculture commented the item regarding the establishment of animal feeding operations health effects value (HEV) and an animal feeding operations health effects standard (HES) for hydrogen sulfide.

We strongly encourage following Federally established guidelines of ambient air quality levels published by the Agency of Toxic Substance and Disease Registry (ATSDR). The mission of the ATSDR, as an agency of the U.S. Department of Health and Human Services, is to serve the public by using the best science, taking responsible public health actions. ATSDR is directed by congressional mandate to perform specific functions which includes toxic gases found in the ambient air for specific levels at different duration.

ATSDR lists Minimum Risk Levels (MRLs) of toxic gases designed to be highly protective for sensitive populations. The MRLs for hydrogen sulfide are listed by duration and exposure levels.

MRLs are derived for:

Acute (1-14 days) continuous exposure

Maximum level:

70 ppb — hydrogen sulfide

Intermediate (> 14 days -364 days) continuous exposure

Maximum level:

30 ppb - hydrogen sulfide

1. Continuous monitoring of hydrogen sulfide and ammonia by the University of Iowa Hygienic Laboratory

Even though the DNR monitoring sites are less than the distance for a separated location, several important health effect issues can be addressed from the study in developing new health effect standards.

- a) The maximum hydrogen sulfide and ammonia levels do not typically peak at the same hour of the day or day of the year at the swine sites.
- b) An evaluation of the data shows that the duration of exposure is more consistent with an acute exposure (exposure of 1 to 14 days).

For example at the Williams site where the monitoring location is 300 to 400 ft from two animal feeding operations, the period of time exceeding 15 ppb hydrogen sulfide was less than a total of 24 hours in the last 18 month period. The duration of exposure is more consistent with an acute exposure (exposure 1 to 14 days) which would be at a maximum concentration of 70 ppb for hydrogen sulfide.

2. Source-Specific Health Standards

The Joint Report was initiated with agricultural issues in mind, but through this process it became evident that guidelines are needed to protect the health of sensitive populations to hydrogen sulfide exposure. The guidelines established in the Joint Report have their basis with ATSDR, in which guidelines are given to protect sensitive populations, regardless of the source for hydrogen sulfide. We feel that to target a single industry for a human health-based standard designed to protect the citizens living in the vicinity of these sources is wrong. The purpose of the Joint Report was to establish recommendations to protect all citizens in the state of Iowa, not just those living near agriculture sources.

3. Setting the limits on hydrogen sulfide

Based upon the data collected by the University of Iowa Hygienic Laboratory, setting the limit for hydrogen sulfide at 15 ppb with no more than 7 times of 1-hr exceedance is too restrictive and is not consistent with the MRL's presented by ATSDR.

Based upon the data collected to date by the University of Iowa Hygienic laboratory near animal feeding operations, we would recommend a minimum of 30 ppb hydrogen sulfide level.

Lisa Davis Cook asked if this changes Iowa State's total stand on the joint report?

Wendy Wintersteen said that when the rules were open for comment earlier this year. Our facility presented a set of comments regarding the changes with the binary standards and what the actual standard should be for hydrogen sulfide. Our position was changed at that point. We are supporting our comments that we submitted during open comment period in January. It's important to understand the difficult task that two Universities were given in such a short time line to complete the report. As people walked away from the final report, there were probably a number of scientist that saw some issues with what was finally agreed upon. The open comment period provided the opportunity to state those issues.

JOHN HAYS, representing the Iowa American Water Works Association supports the DNR's position to prohibit the use of return water from a heat exchanger back into public utilities system distribution.

CINDY RINGERBERG, ICCI member read Barbara Kolbach's comments. Regulations should be put in place to protect rural citizens from the effects of hydrogen sulfide and ammonia emissions from large livestock feeding operations.

KEVIN OFFICER, representing the Iowa Recycling Association and the Iowa Environmental Council had comments regarding the rules and strategy of the Electronics Waste Report. The Recycling Association and the Environmental Commission are in support of the development of this report and the process. We ask that you look at this as a general report of the whole commission's committee recommendations on what we felt were important areas that needed to be addressed. We ask your support for the report so we can move forward.

JEFF SCHNELL, from the Iowa Pork Producers Association said that he was extremely pleased with the progress on dealing with the concrete standards. A few technical details to address include: The addition of polypropylene fiber to concrete mixes. The current DNR language does not include the use of fiber and we ask the commission to allow the DNR staff and engineers to resolve the remaining the issues by tabling the discussion on the specific rule language.

(A handout regarding the polypropylene fiber products can be found in the Department's Record Center.)

ROBERT HOLZ, citizen from Jefferson, Iowa said that his understanding for regulation of livestock facilities is the item on the agenda recommending the 15 ppb hydrogen sulfide level proposed as appropriate. It is also my understanding that no reliable data has been collected by any agency that demonstrates a threshold at which hydrogen sulfide becomes toxic to humans. The 70 ppb level proposed by some agencies includes a safety factor. Imposing and enforcing any regulation is expensive to the regulator and probably more so to the facility owner. Before considering imposing regulatory levels for hydrogen sulfide, it is more important to determine what a toxic level is for the human population. The 15ppb seems considerably low. Why 15? Please consider the health of those who will be directly effected.

ROSS PAUSTIAN, hog farmer from Walcott, Iowa expressed his views on the proposed DNR's standards on hydrogen sulfide. These air quality standards should not be enacted until more studies have been done. 15 ppb for hydrogen sulfide is extremely low. This appears to be an attempt to chase the livestock industry out of Iowa. Why is agriculture being singled out? I urge you to vote no until there is more science based data available.

LARRY GINTER, ICCI member said that On October 20th, 3,600 gallons of manure from Heidi Vittetoe's factory farm in Keokuk County spilled into a tributary of the South

English River. Though the creek bed was dry, the manure applicator had to dam up the tributary before the manure reached the river.

The DNR has not yet issued a Notice of Violation for this spill. They say there was "no environmental damage" because there wasn't a fish kill and the manure didn't reach the South English River.

Iowa CCI members have serious concerns with this, especially because Vittetoe is a member of the Environmental Protection Commission. 567 Iowa Administrative Code 65.2(3) states that "the minimum level of manure control for a confinement feeding operation shall be the retention of all manure produced in the confinement enclosures between periods of manure application." In this case, the manure from Vittetoe's hog factory was not retained. Therefore, Iowa CCI members believe she should be given a Notice of Violation for the spill. Not issuing a violation sends a message to grassroots Iowans that Vittetoe is being treated differently because she's an EPC member.

Therefore, we're asking you to issue a Notice of Violation for her October 20th manure spill immediately. It's the right thing to do.

(A copy of the letter from ICCI regarding Heidi Vittetoe's violation can be found in the Department's Record Center.)

DEB RYUN, from the Conservation Districts of Iowa (CDI) is supportive of IDNR requesting the maximum allowable State program support set aside equaling 10% of EPA capitalization grants, as suggested in the Iowa National Heritage Foundations written comments. As much as \$3 million would be available for the two-year program request for source water protection.

One of the IDNR staff concerns was the ability to meet the matching funds requirement. Iowa's Soil and Water Conservation Districts (SWCD) have a long history of working with IDNR & DSC to provide matching funds with the EPA 319 program. The 319 program has come nowhere near meeting the demand for sources water protection.

Several communities and utilities spend local funds to address water quality concerns. Rathbun Regional Water spends \$100,000 of local funds for watershed work. Iowa Great Lakes also spends about \$200,000. There are others. And there is a very strong possibility that the Natural Resources Conservation Service will be able to work through the districts with a contribution agreement for the match. We need to work together, and work to leverage existing dollars and coordinate programs.

IDNR has three years to develop quality projects and use the money once it is set aside. There will be enough time for SWCD and local water utilities to plan good projects, find the match and use the money wisely. This is a great opportunity to build on the Governor's Water Summit recommendations. Waiting another year serves no valuable purpose. Good local projects will be proposed when local leaders know help is really available. A match for the drink water SRF can be found within the time constraints mandated.

Deb read the comments from John Glenn, Executive Director of Rathbun Rural Water Association.

RRWA actively participated in and supports source water protection efforts in the watershed of Rathbun Lake. We consider these efforts to be a cost effective complement to RRWA's water treatment process that together held us ensure that our customers receive the highest quality drinking water. RRWA's contribution to these water quality protection efforts is valued at more than \$200,000 annually including staff, materials and funds. This support is made available to conservation professionals and landowners in the Rathbun Lake watershed through our local Soil and Water Conservation Districts. RRWA support is used for such activities as watershed assessment, water quality monitoring, public outreach, and cost share for the application of best management practices.

In addition to RRWA's contribution, source water protection efforts in the Rathbun Lake watershed are supported by significant state technical and financial assistance. In turn, RRWA and our partners have been able to use this local and state support to leverage considerable federal assistance for the protection of water quality in Rathbun Lake. RRWA would consider the availability of source water protection grants through a Drinking Water State Revolving Fund (DWSRF) set-aside an excellent opportunity to use our resources to leverage additional funds to protect water quality in Rathbun Lake. RRWA also believes that this use of the DWSRF could have a significant role in protecting and improving water quality in Iowa as a growing number of water utilities become as active as RRWA in source water protection.

ROGER MAXWELL, Wieser Concrete said that they would like a 30 day extension before the proposed code for minimum concrete standards for formed manure storage structures is accepted so we can clarify these issues.

The new standard is intended to allow for alternative designs prepared and sealed by a PE or a NRCS engineer. When working on an alternative design, there is confusion as to which standards that alternative needs to meet. In 65.15(14)a.(l), it states that, "Design considerations shall be in conformance with the American Concrete Institute (ACI) Building Code 318, ACI 360, or ACI 350; or Portland Cement Association (PCA) publications EB075, EB001 or IS072; or MidWest Plan Service (MWPS) publications MWPS-3;) or MWPS TR-9, and shall include all of the following...." We would like to see the reference of MidWest Plan Service omitted from the previous sentence because it s not a design standard. It is a single design, that is based upon the other codes and publications, just as an alternative design should be.

The proposed code continues in 65.15(14)a.(l) with four items that must be included in any plan, if it is designed and sealed by a PE. We believe that this limits designs, if new methods are discovered to do any of these 4 items, it should be allowed as long as the designer can prove to the department that this method will work.

In summary we think it is great that the state of Iowa has a standard design by MWPS that is acceptable to use for manure storage without having to reinvent the wheel for each system. We also believe that you are moving in the right direction by allowing new alternative designs, you just need to allow the new designers to use new methods to meet existing codes and standards, just as MWPS has done in developing their designs. Thus, we would like a 30 day extension to make these minor changes to the proposed code.

RICHARD BIRD, member of ICCI said that ICCI strongly favors the recommended standards by the joint university's study on concentrated animal feeding operations air quality study. These are highly educated men and women whose final study has been reviewed by other professional individuals in the US and as mentioned before overseas also. You will not find a more fair or impartial or competent group anywhere. ICCI still asks for a 15 ppb for hydrogen sulfide, 150 ppb for ammonia and an odor limit of 7 to 1 delusion rate. I understand that the DNR and the EPC are trying to drop any standard for ammonia. I ask and encourage the Commission to do the job for which they were appointed by protecting the Environment and state health by passing meaningful, clean air rules.

LINDA KINMAN, from Des Moines Water Works said that the drinking water state revolving loan fund is the only fund that's small drinking water utilities have for any infrastructure replacement. We believe that infrastructure is just as important as many other environmental things when dealing with good water quality. We would like to have this investigated to ensure that drinking water utilities are the first priority for that fund. The clean water which is waste water fund has been opened up to other entities still not being utilized as much as they could be and we would like to be able to provide those funding to those small utilities as much as we can.

PROPOSED RULE – ADOPT NEW IAC CHAPTER 567-122 “ELECTRONICS RECYCLING”

Jeff Myrom, Deputy Bureau Chief of the Energy & Waste Management Bureau presented the following item .

Attached for the Commission's information and review is a Notice of Intended Action to adopt new administrative rule chapter 567-122 “Electronics Recycling”. A request for action on this new chapter will be brought before the Commission at its January, 2004, meeting.

These rules are intended to satisfy Iowa Code 455D.6(7), in which the Iowa Legislature directed DNR to implement rules for the recycling of discarded electronics and the disassembly and removal of toxic parts from electronics by January, 2004. Iowa will be the first state in the nation to implement rules for the recycling of electronics waste.

The proposed rules were written with the review and input of a 19-member advisory committee. The advisory committee consisted of electronics recyclers, the Iowa

Recycling Association (IRA), the Iowa Society of Solid Waste Operations (ISOSWO), the Association of Business and Industry (ABI), local government officials, and a representative from U.S. EPA Region 7.

A public hearing will be held on March 12, 2004.

Jeff Myrom answered the question on why to include short term electronics recyclers to be registered. That is to give us the opportunity to submit Best Management practices to them so they can be aware of the Federal regulations as well as other permitting requirements. Storm water permits may or may not be required by us.

It was decided to keep this issue moving but another month would be good so a better consensus can be reached.

(A list of those who served on the advisory committee can be found in the Department's Record Center.)

INFORMATIONAL ONLY

REPORT AND PRESENTATION – SUBMISSION OF STRATEGY REPORT FOR ELECTRONICS WASTE MANAGEMENT IN IOWA TO LEGISLATURE

Merry Rankin, Environmental Specialist for the Energy & Waste Management Bureau presented the following item.

Attached for the Commission's review and decision is a report, authored by the Energy & Waste Management Bureau, to the Commission and Iowa Legislature on strategies for electronics waste management. The recommendations in the strategy report are grouped within the following categories:

1. Evaluation of a Landfill Ban
2. Funding and Monetary Incentives
3. Market Development
4. Regulatory Scope
5. Education

Several of these recommendations include action steps that are best addressed by the Iowa Legislature. Furthermore, the report provides background information which legislators may find useful, such as the Department's electronics waste management activities and legislation proposed in other states. Therefore, a decision on whether to forward this strategy report to the Iowa Legislature is requested.

The submission of this report to the Commission is intended to satisfy Iowa Code 455D.6(7), in which the Iowa Legislature directed DNR to provide a strategy report for the recycling of electronics and the disassembly and removal of toxic parts from electronics by January, 2004.

The strategy report was written with the guidance and input of a multi-stakeholder advisory committee. The advisory committee consisted of electronics recycling companies, the Iowa Recycling Association (IRA), the Iowa Society of Solid Waste

Operations (ISOSWO), and local government officials. To ensure the advisory committee was aware of national and international initiatives, the DNR hosted Brian Mitchel from U.S. EPA Region 7, and Scott Cassel from the Product Stewardship Institute (of which the DNR is a member) as expert witnesses at two advisory committee meetings.

Merry Rankin gave a PowerPoint presentation on the Strategy for Electronics Waste Managements future endeavors.

Dan Mickelson asked who will be selecting the electronics that are going to go through the ban? It's important that we consider who will do this. Maybe we should narrow that down before it goes to the Legislators for action. I think the report needs to include and define the electronics that we would want to ban before we give this to the Legislators.

Hal Morton said that the concern is deciding who will be determining the list and the definition of electronics.

Jeff Vonk said that it should be included as part of the development of the strategy. The advisory group should help determine what should be a subject.

(Two follow-up letters were given out to Commissioners regarding this issue and a copy of the Strategy Report for Electronics Waste Management with Appendix A-D. These copies can be found in the Department's Record Center.)

Motion was made by Lisa Davis Cook to approve moving forward with the Strategy Report for Electronics Waste Management to the Legislature. Seconded by Donna Buell. Motion carried unanimously.

APPROVED AS PRESENTED

Kathryn Murphy asked the Commission to address Item 12 – NOIA to amend Chapter 20 “Scope of Title – Definitions – Forms – Rules of Practice, and to amend Chapter 32 “Health Effects Value (HEV)”. We would like to include Darrell Hanson's comments since he will be departing early today.

Darrell Hanson said that he would like to move ahead on the issue. One of the biggest issues that we will need to decide is what will be the “magic” number. What number will be the standard? To my understanding, there was the decision on the 15 ppb which was recommended by the joint literature review was based on a couple of different assumptions. Some of the individuals involved in setting that, feel that further research has indicated that those assumptions may not be correct or able to justify the original decision. I understand there was a “magic” number of 70 ppb for short term exposures and 30 ppb for longer term exposures. Thirty was chosen because of the assumptions about what the length of the exposures were likely to be and because of other assumptions was arbitrarily cut in half. I would consider this a reasonable logical estimate and it they cut it in half. The best argument for saying that is the best number to

use is that the people involved in the field from the two Universities agreed that that was the number to use. The justification for that is not correct anymore. Science is not always exact and decisions are not frozen in amber. You make your best guess and as you get more information you change. It seems that if the best justification is that the two Universities agreed, it makes it difficult to say 15 in the number. I would go with the lowest number agreed upon.

Catherine Fitzsimmons said that the Universities set the standard as a one hour standard. They were considering the length of time at that point over which they believe they should be compared.

FFY 2004 DRINKING WATER STATE REVOLVING FUND INTENDED USE PLAN

Chuck Corell, Acting Chief of the Water Quality Bureau presented the following item.

Commission approval is requested for the Drinking Water State Revolving Fund (DWSRF) Intended Use Plan (IUP) for FFY 2004. Section 1452 of the Amended Safe Drinking Water Act authorized the U.S. Environmental Protection Agency (EPA) to establish a State Revolving Loan Fund for drinking water-related projects to assist water systems to finance the costs of infrastructure needs and to maintain compliance with the Safe Drinking Water Act. The IUP includes the list of projects proposed to receive loan assistance through the Drinking Water State Revolving Fund for FFY 2004 and is the initial step in preparing a request for the 2004 DWSRF capitalization grant from EPA.

The proposed FY 2004 IUP includes the list of projects proposed to receive loan assistance through the DWSRF with money available from the 2004 capitalization grant funds, state match, and leveraged or transferred funds. Thirty applications were received, reviewed, and ranked using criteria contained in Chapter 44 of 567 IAC. Two applicants withdrew their applications and one application was not considered because it was not accompanied by a preliminary engineering report as required by the IAC. The IUP lists the remaining 27 applicants and their associated rankings. It is anticipated that all eligible applicants will receive loan assistance. Under the IUP, 27 new projects would receive loan assistance totaling slightly less than \$37 million. Loans will be made at an interest rate of 3% for periods up to 20 years.

A public hearing was held November 19, 2003 to receive comments on the proposed project priority list. The written comment period closed on November 26, 2003. One comment was received and is addressed in the attached responsiveness summary. No changes were made to the project priority list as a result of the public participation process. EPA wants us to explain ahead of time how we are going to spend the money and a list of the projects affected.

Dennis Alt said that the advisory groups have not met on the Intended Use Plan. The advisory group met to set up the structure of the State Revolving Loan fund agreement back in 1997 and 1998. They have not re-convened since then.

Jeff Vonk said that if the Commission were to approve this plan as presented according to the capitalization grant from the EPA. The interested parties who have talked about this reserved amount of money were to go out and do the work and identify the specific projects that would be eligible for this funding. Is it within the purview of the Department and the Commission to amend the Intended Use Plan to incorporate what would then be specific projects. Are we able and willing as the Department to take this under consideration for an amendment at some point?

Chuck Corell said that we are willing and able. If it happens before May or June, we could amend this plan up until the time we apply for capitalization grant for 2004. The Congress has not appropriated funds for the program yet. If we don't move forward with this plan, we could include it in the 2005 plan sooner.

Motion was Lisa Davis Cook to approve the 2004 Drinking Water SRF Intended Use Plan with the intention that the Department go out and look at the option of amending this plan to include some of the source water issues and possible set asides for projects. Seconded by Francis Thicke. Motion carried unanimously.

Lisa Davis Cook said that she would like to hear updates on how things coming along.

APPROVED AS PRESENTED

FINAL RULE - DRINKING WATER, OPERATOR CERTIFICATION AND LABORATORY CERTIFICATION PROGRAMS - CHAPTERS 40, 41, 42, 43, 44, 81, AND 83

Chuck C. Corell, Acting Chief of the Water Quality Bureau presented the following item.

Commission approval is requested for adoption of the revised Public Drinking Water Supply Rules of IAC 567—Chapters 40-43, revised Drinking Water State Revolving Loan Fund Rules of IAC 567—Chapter 44, revised Operator Certification Rules of IAC 567—Chapter 81, and the revised Environmental Laboratory Certification Rules of IAC 567—Chapter 83. The proposed rules were published as a Notice of Intended Action in the Iowa Administrative Bulletin XXVI, #6, on September 17, 2003.

The following federal rule provisions are being adopted, which is required of the state in order to maintain primacy for the Safe Drinking Water Act (SDWA) in Iowa.

- Lead and copper rule revisions
- Radionuclide rule
- Public notification rule
- Two analytical methods rules

- Arsenic rule
- Filter backwash recycle rule
- Long-term 1 enhanced surface water treatment rule

Other changes are summarized below:

- Rescission of outdated unregulated contaminant monitoring rules.
- Sample collection and analytical methodology requirements for ammonia.
- Amendments to the self-monitoring flow categories to include facilities with flows less than 25,000 gallons per day.
- Waiver of bottled water monitoring requirements if the water is from a community public water supply that meets all SDWA requirements.
- Return of water from steam condensate, engine cooling jackets, heat exchange devices, or wastewater treatment processes to a public water supply system is not allowed.
- Listing the components of a sanitary survey and required timelines for correction of deficiencies.
- Allowing the department, at its discretion, to require systems currently not able to operate within design standards to upgrade their system before issuing a construction permit for another project that does not address the deficiencies.
- Updating references to the construction standards for public water supplies.
- Reinstating a construction permit fee.
- Incorporating statutory requirements that well construction be done by a certified well contractor.
- Updating well-sitting requirements, including revision of the separation distances from wells to contamination sources.
- Amending the drinking water revolving loan program rules to allow a public water supply to incorporate all projects costs for an eligible project to be included in the loan and to start work on the project more quickly than under the current rules. This will allow such things as preliminary planning and design costs to be eligible for loans.
- Amending operator certification rules to: require an on-site review of an operator's capabilities for oral exams; require an operator with a lapsed license to meet the existing experience and education eligibility requirements as prerequisites to reinstatement; and waive the requirement for two failed examinations for an operator that has previously been certified under the oral examination rules.
- Requiring an applicant to meet all education and experience requirements upon reapplication if their operator certificate has previously been revoked.
- Requiring any entity holding courses in Iowa for which continuing education credit is offered for water treatment, water distribution, or wastewater operator certification to allow DNR staff to audit the training and receive all training materials at no cost to the department.
- Adopting laboratory certification requirements for the solid waste and contaminated sites programs.

- Restructuring fees that support the laboratory certification program. The certification program is supported solely with fees and a fee increase is needed to sustain the program.
- Clarification that a laboratory certified through a reciprocal agreement with another state will lose Iowa certification immediately if its primary certification is revoked.
- Requiring upon revocation of certification that a laboratory immediately discontinue analysis and reporting of compliance samples for any Iowa-regulated entity and notify their regulated Iowa clientele and other state agencies of their certification status within three business days.
- Corrections and updates to grammar, references, and titles.

Six public hearings were held to receive public input, one in each of the following communities: Atlantic, Des Moines, Manchester, Mason City, Storm Lake, and Washington. The public comment period was from September 17 through October 17, 2003. The public comments are detailed in the attached Responsiveness Summary, and there were five modifications of the proposed water supply, operator certification, and environmental laboratory rules as noted in the Summary. The most significant change was to the proposed laboratory certification fee structure, where the proposed fee structure was revised to add multiple programs for the same analytical groups for the inorganic compounds, volatile organic compounds, synthetic organic compounds, and underground storage tank analytical group. The single analyte fee was also corrected. Two changes updated the water supply design standards to the most current 2003 version. One change amended a tag line, and the final change was to correct the rule language to reflect the department's intention that operators that hold both a water treatment and a water distribution certification must earn at least 25 percent of the required CEUs in any one area.

Motion was made by Jerry Peckumn to approve the Final Rule as presented. Seconded by Donna Buell. Motion carried unanimously.

APPROVED AS PRESENTED

FINAL RULE – CONCRETE STANDARDS

Wayne Gieselman, Division Administrator of the Environmental Services Division presented the following item.

As a result of the rule 2002 Iowa Acts, chapter 1137, the department is modifying its minimum concrete standards for formed manure storage structures.

The new standards include minimum concrete standards for a formed manure storage structure for non-dry manure, for the storage of manure exclusively in a dry form, and upgraded concrete standards for karst.

The proposed minimum concrete standards would replace subrule 567 IAC 65.15 (14) and would add a new Appendix “D”, at the end of Chapter 65.

Attached is the “Responsiveness Summary” on the public comments received and the “Adopted and Filed” proposed minimum concrete standards.

Reza Khosravi said that we wanted to expose these rules to the public for their input. We have decided to accept wire mesh for shallow pits but not for deep pits. We could not agree with putting fiber in at all.

The final standards allow for an alternative design submitted by a PE or a NRCS engineer. The PE or NRCS design shall conform to ACI-318, ACI-360, PCA publications, MWPS-36, MWPS TR-9 or a combination. The Iowa DNR believes that a PE or NRCS engineer meets the training and accreditation standards for adequate interpretation of these technical documents. In cases in which there is no PE or NRCS engineer involved in the design and construction of a formed manure storage structure, the final standards will require producers and contractors to follow either MWPS-26 (rectangular tanks) or MWPS TR9 (circular tanks) or the Iowa DNR design specifications provided in a new Appendix D, at the end of Chapter 65. In addition, if a formed manure storage structure is not designed and sealed by a PE or a NRCS engineer, the final rules require additional minimum concrete standards, for both, non-dry and dry manure storage.

Wayne Gieselman said that fiber makes the concrete look really nice and will to an extent help with cracking but it doesn’t really do anything for strength of the concrete. I suggest that you delay these standards for thirty-days.

<i>Motion was made by Jerry Peckum to delay the Concrete Standards for 30 days. Seconded by Terry Townsend. Motion carried unanimously.</i>

APPROVED AS AMENDED

NOTICE OF INTENDED ACTION TO AMEND CHAPTER 20 “SCOPE OF TITLE-DEFINITIONS-FORMS-RULES OF PRACTICE,” AND TO AMEND CHAPTER 32 “HEALTH EFFECTS VALUE (HEV)”

Jim McGraw, Supervisor of the Program Development Section presented the following item.

The attached Notice of Intended Action to amend Chapter 20 “Scope of Title-Definitions-Forms-Rules of Practice”, and to amend Chapter 32 “Health Effects Value (HEV)” of the Iowa Administrative Code [567] is being presented to the Environmental Protection Commission. Approval to proceed with rulemaking activities is requested.

Iowa Code section 459.207 provides guidance to the department regarding the development of comprehensive plans and programs to regulate atmospheric emissions from animal feeding operations (AFOs). The department must first

complete a field study where concentrations of ammonia, hydrogen sulfide and odors are measured. After completion of the field study, the department may develop comprehensive plans and programs if the baseline data from the field study demonstrates to a reasonable degree of scientific certainty that airborne pollutants emitted by an animal feeding operation are present at a separated location at levels commonly known to cause a material and verifiable adverse health effect.

This rulemaking establishes an animal feeding operations health effects value (HEV) and health effects standard (HES) for hydrogen sulfide. The HEV represents a level commonly known to cause a material and verifiable adverse health effect. The department proposes a level for hydrogen sulfide of 15 parts per billion (ppb) averaged over 1-hour. The HES represents a level to determine if the baseline data from the field study data indicates a need to develop plans and programs to mitigate airborne pollutant emissions from animal feeding operations. The department proposes a level of 15 parts per billion (ppb) averaged over 1-hour, not to be exceeded more than 7 times in one year. These values are applicable to animal feeding operations only. Both values are based on recommendations found in the Iowa Concentrated Animal Feeding Operations Air Quality Study.

This rulemaking also establishes an Iowa Air Sampling Manual that will be incorporated by reference in Chapter 32 of Iowa Administrative Code [567]. This manual contains monitor siting requirements, data handling procedures, approved monitoring methods and equipment, quality assurance requirements, and requirements for public availability of data required to implement the HEV/HES for hydrogen sulfide. The manual will not be published in the Iowa Administrative Code, but will be available from the department upon request.

A Technical Advisory Group (TAG) consisting of stakeholders and experts in the field of ambient air monitoring was formed to assist with determining monitoring instrumentation and methodology for the confined animal feeding operations (CAFO) comprehensive field study mandated in Iowa Code section 459.207. The group meetings provided attendees a chance to offer recommendations and to suggest alternative methods or approaches to the department. TAG meetings were held on June 11, 2002 and June 25, 2002 at the Air Quality Bureau. There was consensus among the TAG members that the measurement method for hydrogen sulfide proposed by the department, which is the basis for compliance monitoring in other agricultural states, represents the best monitoring method currently available to conduct a field study for these pollutants.

The Environmental Protection Commission has statutory authority to establish a health effects value on the basis of providing air quality protection necessary to safeguard the public health and welfare pursuant to Iowa Code section 455B.133 and the provisions of Iowa Code section 459.207.

An informational meeting is scheduled for December 12, 2003, from 1 p.m. to 3 p.m. at the Air Quality Bureau. Public hearings on the standards will be held in Spencer, Urbandale, Atlantic, Mason City, and Davenport if approval to proceed with this rulemaking is granted. Specific locations, dates and times for the public hearings are provided in the proposed rule.

An administrative rule fiscal impact statement is attached.

Catherine Fitzsimmons said that the *health effects value* is defined as the level of an airborne pollutant commonly known to cause a material and verifiable adverse health effect. A *health effects standard* is defined as the level of an airborne pollutant required to initiate plans and programs to mitigate emissions of airborne pollutants. This rule would establish a health effects value for hydrogen sulfide based on commonly known and accepted health risk data, that would be used to compare the baseline data currently being collected in the field study mandated in Iowa Code Section 459.207. The health effects value and the health effects standards are intended to be used as a “bar” in evaluating the field study data. The HEV/HES would be applicable to animal feeding operations only.

The department may conduct monitoring near a residence provided the residence was built before construction of a nearby animal feeding operation, and statutory separation distance requirements were in place that were applicable to the animal feeding operation at the time it was constructed.

The department may not conduct monitoring near a residence under the following conditions:

1. No monitoring near “grandfathered” animal feeding operations.
2. No monitoring near animal feeding operations that were excluded from separation distance requirements under the statute.
3. No monitoring near “waivered” residences.
4. No monitoring near animal feeding operation that are out of compliance with the separation distance requirements under the statute.
5. No monitoring if the animal feeding operation was constructed before the house. (The residence was built after construction of a nearby animal feeding operation, and statutory separation distance requirements were in place that were applicable to the animal feeding operation at the time it was constructed.)

The hydrogen sulfide HEV/HES is consistent with Iowa Code section 459.207, in that it established a value to be used in determining whether or not harmful concentration of hydrogen sulfide from animal feeding operations exist at separated locations. Thus, it ensures that data gathered from the field study will be used for its intended purpose. The HEV/HES applies solely at separated locations, and is not intended for use as an ambient air standard.

As new data continues to become available regarding emissions from animal feeding operations and their impact on the environment, it should be reviewed for applicability to

the levels of the HEV/HES for hydrogen sulfide. Therefore, the department will review the level of the HEV/HES every five years and incorporate the latest scientific research as applicable.

We are asking you to allow this to go for Notice of Intended Action and not to make final approval of the standards. We feel it's important to keep the process moving.

Motion was made by Lisa Davis Cook to approve the Notice of Intended Action to amend Chapter 20 and Chapter 32. Seconded by Terry Townsend. Roll call vote went as follows: Lisa Davis Cook – aye; Donna Buell – aye; Francis Thicke – aye; Terry Townsend – aye; Heidi Vittetoe – nay; Jerry Peckumn – aye; Kathryn Murphy – nay. Motion carried.

APPROVED AS PRESENTED

DENIAL OF PETITION FOR RULE MAKING- AGRIBUSINESS ASSOCIATION OF IOWA,ET.AL.

Jim McGraw, Supervisor of the Program Development Section presented the following item.

The Commission will be asked to deny the attached petition for rule making to amend 567 Iowa Administrative Code to add a new rule 28.2 and to adopt an Iowa Field Study Sampling Manual. The petition proposed to adopt rules relating to a comprehensive field study on hydrogen sulfide and ammonia concentrations in ambient air, and on odor.

The petitioners have asked for a rulemaking that includes provisions that are already being addressed or included in the department's HEV/HES rulemaking. Other provisions in the petitioner's request unnecessarily place restrictions on the scope and length of the field study, and conflict with the existing field study quality assurance project plans and standard operating procedures that have already been established and are in use. These limitations would hinder the department's ability to collect the baseline data necessary to make an informed decision regarding the need to develop plans and programs related to the control of emissions from animal feeding operations, as specified in Iowa Code section 459.207. Specific comments that support this petition denial are included in the Denial of Petition for Rule Making.

Catharine Fitzsimmons asked that we delay consideration of this petition for 30 days.

Motion was made by Jerry Peckumn to delay for 30 days. Seconded by Terry Townsend. Motion carried unanimously.

APPROVED AS AMENDED

APPEAL OF CONTESTED CASE DECISION – PIPER MOTOR COMPANY, INC. & BRUCE PIPER (TABLED)

Michael P. Murphy, Chief of the Legal Services Bureau presented the following item.

On April 17, 2002, the department issued Administrative Order No. 2002-WW-18 to the above parties. The Order required the parties to comply with wastewater monitoring requirements, to connect to the City sewer system, and to pay a penalty of \$10,000. The Order also included a Notice of Intent to Deny permit renewal. The Order and Notice were appealed, and the matters proceeded to administrative hearing on June 10, 2003. The Administrative Law Judge issued the attached Proposed Decision on July 2, 2003. The decision affirms the Order and Notice.

Mr. Piper has appealed this Proposed Decision to the Commission. The Proposed Decision, and pertinent documents have been distributed to the Commissioners. The entire record, including hearing tapes and exhibits are available for your review. The parties will be available to argue their respective positions and respond to your questions. You may then affirm the Proposed Decision, or modify or reverse it, substituting your own findings of fact and conclusions of law based on your conclusions from your review of the record and legal argument.

Motion was made by Terry Townsend to untable. Seconded by Lisa Davis Cook. Motion carried unanimously.

Mike Murphy asked the Commission to table the item until next month.

Motion was made Lisa Davis Cook to table the Appeal of Contested Case Decision – Piper Motor Company, Inc & Bruce Piper. Seconded by Terry Townsend. Motion carried unanimously.

TABLED

REFERRALS TO THE ATTORNEY GENERAL

Michael P. Murphy, Chief of the Legal Services Bureau presented the following item.

The Director requests the referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the commissioners and are confidential pursuant to Iowa Code section 22.7(4). The parties have been informed of

this action and may appear to discuss this matter. If the Commission needs to discuss strategy with counsel on any matter where the disclosure of matters discussed would be likely to prejudice or disadvantage its position in litigation, the Commission may go into closed session pursuant to Iowa Code section 21.5(1)(c).

a) Albert Miller [Kalona] – air quality/solid waste/penalty.

Motion was made by Terry Townsend to refer Alert Miller to the Attorney General. Seconded by Jerry Peckumn. Motion carried unanimously.

REFERRED

MONTHLY REPORTS

Wayne Gieselman, Division Administrator for the Environmental Services Division presented the following item.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Manure Release Report
5. Enforcement Status Report
6. Administrative Penalty Report
7. Attorney General Referrals Report
8. Contested Case Status Report
9. Waste Water By-passes Report

**IOWA DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
RULEMAKING STATUS REPORT
December 1, 2003**

Proposal	Notice to Commission	Notice Published	Arc #	Review Committee	Comment Hearing Period	Summary to Commission	Rules Adopted	Rules Published	Final Review	Arc #	Rule Committee	Effective
1. Ch. 20, 22 – Controlling Pollution (Definitions)	11/17/03	*12/10/03		*1/06/04	*1/16/04	*1/16/04	*2/16/04	*2/16/04	*3/17/04		*4/06/04	*4/21/04
2. Ch. 20, 32 – Health Effects Value (HEV)	12/15/03	*1/07/04		*2/03/04			*3/15/04	*3/15/04	*4/96.94		*5/04/04	*5/12/04
3. Ch. 22 – Air Construction Permitting Exemption for Small Units	8/18/03	9/17/03	2775B	10/13/03	10/07/03	10/17/03	11/17/03	11/17/03	*12/10/03		*1/05/04	*1/14/04
4. Ch. 23 – Emission Standards for Contaminants – Open Burning	6/16/03	7/09/03	2597B	8/05/03	8/07/03	8/13/03	11/17/03	11/17/03	*12/10/03		*1/05/04	*1/14/04
5. Ch. 23 – Emission Standards for Contaminants – Waste Incineration	11/17/03	*12/10/03		1/06/04	*1/16/04	*1/16/04	*2/16/04	*2/16/04	*3/17/04		*4/06/04	*4/21/04
6. Ch. 40, 41, 42, 43, 44, 81												

and 83 – Drinking Water Operator Certification and Lab Certification Programs	8/18/03	9/17/03	2779B	10/13/03	10/7,8,10, 13-15/03	10/17/03	12/15/03	*12/15/03	*1/07/04		*2/03/04	*2/11/04
7. Ch. 61 – Water Quality Standards	8/18/03	9/17/03	2776B	10/13/03	10/7,9,10, 13,15,17/03	10/31/03	*1/20/04	*1/20/04	*2/18/04		*3/09/04	*4/07/04
8. Ch. 64, 69 – Renewal of General Permit	5/19/03	6/11/03	2526B	7/08/03	7/01-10/03	7/11/03	11/17/03	11/17/03	*12/10/03		*1/05/04	*1/14/04
9. Ch. 65 – Animal Feeding Operations- Construction Standards	7/21/03	8/20/03	2716B	9/10/03	9/11/03	9/11/03	12/15/03	*12/15/03	*1/07/03		*2/03/04	*2/11/04
10. Ch. 65 – Animal Feeding Operations – Manure Applicators	10/20/03	11/12/03	2924B	12/09/03	12/03/03	12/03/03	*2/16/04	*2/16/04	*3/17/04		*4/06/04	*4/21/04
11. Ch. 65 – Animal Feeding Operations – Manure Applicators							10/20/03	10/20/03	11/12/03	2923B	*12/09/03	12/02/03
12. Ch. 111 – Financial Assurance Requirements for SWLFs	9/15/03	10/15/03	2863B	11/10/03	11/05/03	11/05/03	*1/20/04	*1/20/04	*2/18/04		*3/09/04	*3/11/04
13. Ch. 117 – Waste Tire Management	7/21/03	8/20/03	2717B	9/10/03	9/10/03	9/10/02	10/20/03	10/20/03	11/12/03	2925B	12/09/03	*12/17/03

Iowa Department of Natural Resources
Environmental Services Division
Report of Hazardous Conditions

During the period November 1, 2003, through November 30, 2003, 54 reports of hazardous conditions were forwarded to the central office. A general summary and count by field office is presented below. This does not include releases from underground storage tanks, which are reported separately.

Substance	Mode											
	Month	Total	Agri-	Petroleum	Other	Transport	Fixed	Pipeline	Railroad	Fire	Other*	
	Incidents	chemical	Products	Chemicals	Facility							
	October	72 (55)	11 (4)	44 (40)	17 (11)	21 (18)	40 (32)	2 (1)	1 (2)	3 (0)	5 (2)	
	November		54 (57)	4 (13)	37 (29)	13 (15)	17 (18)	28 (36)	1 (0)	1 (0)	0 (1)	7 (2)
	December		0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
	January	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	
	February	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	
	March	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	
	April	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	
	May	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	
	June	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	
	July	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	
	August	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	
	September		0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
	Total	126 (112)	15 (17)	81 (69)	30 (26)	38 (36)	68 (68)	3 (1)	2 (2)	3 (1)	12 (4)	

(numbers in parentheses for same period last year)

Total Number of Incidents Per Field Office This Month.
unknown

*Other includes dumping, theft, vandalism and

1	2	3	4	5	6
6	11	10	7	10	10

**Iowa Department of Natural Resources
Environmental Services Division
Report of Manure Releases**

During the period November 1, 2003, through November 30, 2003, 5 reports of manure releases were forwarded to the central office. A general summary and count by field office is presented below.

Month	Total	Feedlot	Confinement	Land	Transport	Hog	Cattle	Fowl	Other	Surface
Incidents	Application	Water								
Impacts										
October	8 (10)	0 (0)	2 (5)	3 (1)	2 (4)	7 (9)	0 (1)	0 (0)	0 (0)	0 (1)
November	5 (12)	0 (0)	2 (4)	2 (3)	1 (5)	5 (12)	0 (0)	0 (0)	0 (0)	0 (0)
December	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
January	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
February	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
March	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
April	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
May	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
June	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
July	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
August	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
September	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
Total	13 (22)	0 (0)	4 (9)	5 (4)	0 (0)	12 (21)	0 (1)	0 (0)	0 (0)	0 (1)

(numbers in parentheses for the same period last year)

Total Number of Incidents Per Field Office This Month.

1	2	3	4	5	6
0	2	0	2	1	0

DATE: December 1, 2003

TO: EPC

FROM: Mike Murphy

RE: Enforcement Report Update

The following new enforcement actions were taken last month:

Name, Location and Field Office Number	Program	Alleged Violation	Action	Date
Monsanto Company, Aplington (2)	Air Quality	Construction Without Permit	Consent Amendment \$2,000	10/31/03
Hidden River Campground, Tipton (6)	Drinking Water	Operational Violations	Order/Penalty \$1,000	10/31/03
Rick VanRoekel, Sioux Co. (3)	Animal Operation	Feeding Failure to Submit Plan	Order/Penalty \$1,500	11/03/03
Siouxland Energy & Livestock Cooperative d/b/a SELC, Sioux Center (3)	Air Quality Wastewater Haz. Condition	Construction Without Permit; Other AQ Violations; Failure to Notify; Discharge Limits	Order/Penalty \$10,000	11/03/03
Bernard H. Cohrs; Cohrs Construction, Inc. d/b/a Cohrs Gravel Pit, Spirit Lake (3)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Consent Amendment SEP	11/06/03
Bruty Lumber, Inc., Washington (6)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Consent Amendment \$2,000	11/06/03
James Boller, Kalona (6)	Animal Operation	Feeding Prohibited Discharge – Confinement; Failure to Report a Release	Consent Amendment \$5,000	11/06/03
Dynamic Investments, Inc.;	Underground Tank	Financial Responsibility	Order/Penalty	11/14/03

Casey's General Stores, Inc. Wapello (6)			\$1,950	
Boyer's Sand and Rock, Inc.; William Boyer, Hawarden (3)	Underground Tank	UST Closure	Order/Penalty \$2,380	11/14/03
Walcott Collision, Inc., Walcott (6)	Air Quality	Operational Violations	Order/Penalty \$1,250	11/14/03
Ag Processing Inc., Sergeant Bluff (3)	Air Quality	Other Violations	Consent Order	11/25/03

IOWA DEPARTMENT OF NATURAL RESOURCES
COMPLIANCE AND ENFORCEMENT BUREAU

DATE: December 1, 2003
TO: Environmental Protection Commission
FROM: Michael P. Murphy
SUBJECT: Summary of Administrative Penalties

The following administrative penalties are due:

NAME/LOCATION	PROGRAM	AMOUNT	DUE DATE
Otter Creek Station (Dubuque Co.)	WS	325	3-04-99
Dorchester Supper Club (Dorchester)	WS	100	3-08-00
Plain Salvage Inc. (Sac City)	AQ/SW	10,000	5-12-00
R & R Ranch (Osceola)	WW	10,000	8-30-00
Robert Watson (Griswold)	UT	1,700	9-03-00
Country Stores of Carroll, Ltd. (Carroll)	UT	4,700	1-17-01
Alice Hillhouse; Hillhouse Real Estate Corp. (Denison)	UT	3,000	2-28-01
Paul Riha d/b/a Riha Auto Sales (Vining)	UT	1,200	5-06-01
Dallas O'Neal; Linda O'Neal (Council Bluffs)	UT	750	6-05-01
Teckenburg, Inc.; Jerry Teckenburg (Cedar Rapids)	UT	6,380	7-06-01
David and Marie Phillips (Milo)	WW	1,300	7-09-01
Keith Craig; The Farm (Council Bluffs)	UT	3,890	8-08-01
James Harter (Fairfield)	WW	1,800	8-01-01
Carpenter Bar & Grill (Carpenter)	WS	100	9-28-01
Minnesota Rubber Company (Mason City)	AQ	1,000	9-30-01
Louisa County Regional Solid Waste Agency	SW	1,250	10-27-01
Elite, Ltd.; FS Energy Fuel 24, LLC; Roger Kanne	UT	3,400	12-03-01
Crestview Trailer Park (Ames)	WS	2,500	1-28-02
Coralville, City of (SEP)	WW	3,000	2-11-02
# Troy DeGroot; Casey DeGroot (Butler Co.)	AFO/AQ/SW	1,100	3-08-02
Iowa Coaches, Inc.; David Sherman (Dubuque)	UT	3,960	5-03-02
# Practical Pig Corporation (Clinton Co.)	AFO	2,000	5-26-02
St. John's Lutheran Church (Greene)	WS	250	7-02-02
Robert Marburger (Sabula)	UT	2,940	7-15-02
Midway Oil Co.; David Requet (Davenport)	UT	6,430	9-20-02
* John Smith d/b/a Four Corners Tap (Lockridge)	AQ/SW	350	10-15-02
Wilbur McNear d/b/a McNear Oil Co. (Onawa)	UT	5,930	12-17-02
Finley Mondia (West Chester)	UT	6,430	12-23-02
Jeff Reed d/b/a Reed's Service (Lenox)	UT	7,250	1-12-03
Allan Scott (Marion Co.)	SW/WW	1,150	1-15-03
# Dave Jones (Union Co.)	AFO	1,550	2-14-03
* Moonshine Tap (New Hampton)	WS	200	2-15-03
* Winter Mobile Home Park (New Hampton)	WS	250	2-15-03

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U.S. Petro, Inc.; SSJG Petroleum; Sukhdev Singh	UT	32,690	2-28-03
Midway Oil Co.; David Requet; John Bliss	UT	44,900	2-28-03
Duane Crees (Muscatine Co.)	AQ/SW	1,160	3-01-03
Lidderdale, City of	WS	500	3-04-03
Nevada, City of SEP	WW	3,000	3-14-03
Lidderdale, City of	WW	10,000	4-08-03
Bernard H. Cohrs; Cohrs Const. Co. (Dickinson Co.) SEP	AQ/SW	7,000	4-09-03
Scooter's Tower Club (Cresco)	WS	500	4-29-03
Efren Valdez (Warren Co.)	SW	4,000	6-09-03
# James Masching (Carroll Co.)	AFO/WW	5,000	6-25-03
Mobile World LC (Clinton Co.)	SW	2,250	6-29-03
Pita Corporation; Larry Swanson (Grinnell)	UT	750	7-13-03
* Paul L. Nagle (Clear Lake)	AQ	100	7-15-03
Casey's General Stores, Inc. (Various Locations)	UT	15,000	8-01-03
Casey's General Stores, Inc. (4 Locations)	UT	4,500	8-01-03
McMahon's Bar & Ballroom (Andover)	WS	500	8-08-03
Albert Miller (Kalona)	AQ/SW	10,000	9-26-03
Lewis Hartgers (Jasper Co.)	AQ/SW/WW	3,000	11-04-03
# K L & L; Charles Kollasch; Luke Kollasch (Palo Alto Co.)	AFO	750	11-04-03
# Holstein Dairy, LLP (Ida Co.)	AFO	750	11-07-03
# James Boller (Kalona)	AFO	5,000	11-30-03
*#Robert Fisher (Hamilton Co.)	AFO	200	12-01-03
*#Roger Bockes, et. al. (Tama Co.)	AFO	600	12-01-03
Bruty Lumber, Inc. (Washington) (\$1,000/SEP)	AQ/SW	2,000	12-05-03
#*Avery Feeder Pig Co. (Humboldt Co.)	AFO	1,250	12-15-03
KMB Diversified Services, Inc. (Rock Rapids)	AQ	3,000	12-15-03
Metzeler Automotive Profile Systems (Keokuk)	AQ	10,000	12-15-03
* Jerry Feilen and Rick Bain (Pottawattamie Co.)	AQ/SW	975	12-15-03
#*Van Middendorp Dairy (Sioux Co.)	AFO	2,250	12-15-03
* John and Bernice Danner (Lucas Co.)	WW	925	12-15-03
* Quality Mat Co., Inc. (Waterloo)	AQ	2,863	12-15-03
Rural Iowa Solid Waste Management Assoc. (Hardin Co.)SEP	SW	1,000	12-23-03
Robert L. Nelson (Orient)	UT	2,450	12-26-03
William Day (Iowa Co.)	SW/WW	2,000	1-02-04
# Jeff Holland (Winnebago Co.)	AFO	5,500	1-11-04
Twin Lakes Sanitary Sewer District (Calhoun Co.)	WW	5,000	1-06-04
# Rick Van Roekel (Sioux Co.)	AFO	1,500	1-06-04
North Iowa Wood Products, Inc. (Belmond)	AQ/SW	4,000	1-06-04
Dynamic Investments, Inc. (Wapello)	UT	1,950	1-20-04
Independence Mobile Home Park (Independence)	WS	800	-----
Alva Parker (Ringgold/Union Co.)	AQ/SW	10,000	-----
Green Valley Mobile Home Park (Mt. Pleasant)	WW	5,000	-----
Pat Kelly d/b/a Kelly Construction (Denison)	UT	1,860	-----
# Performance Feeders, Inc. (O'Brien Co.)	AFO	1,500	-----
Roger Ginger d/b/a L & L Standard (Everly)	UT	5,750	-----
James L. Heal d/b/a A-1 Domestics (Homestead)	SW/WW	1,800	-----
Well's Dairy, Inc. (LeMars) SEP	WW	5,000	-----
American Shell Co.; James L. Peach (Fairport)	UT	6,200	-----
SSJG Petroleum, Inc. (Muscatine)	UT	10,000	-----
Boyer's Sand and Rock, Inc.; William Boyer (Hawarden)	UT	2,380	-----
Walcott Collision, Inc. (Walcott)	AQ	1,250	-----
TOTAL		326,538	

The following cases have been referred to the Attorney General:

Donald P. Ervin (Ft. Dodge)	SW	669	3-05-90
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E00Dec-71

Robert and Sally Shelley (Guthrie Center)	SW	1,000	3-04-91
Verna and Don Reed; Andrea Silsby (Union Co.)	SW	1,000	4-07-94
Relative, Inc.; Doug Smuck (Des Moines)	UT	3,070	10-11-94
Relative, Inc.; Doug Smuck (Des Moines)	UT	600	10-11-94
Paul Underwood d/b/a Underwood Excavating (Cedar Rapids)	AQ	4,000	3-24-95
Randy Ballard (Fayette Co.)	FP	2,000	5-30-95
Long Branch Tavern (Monmouth)	WS	100	5-01-96
Long Branch Tavern (Monmouth)	WS	6,400	10-28-96
Long Branch Tavern (Monmouth)	WS	200	3-18-97
Don Grell d/b/a Dodger Enterprises (Ft. Dodge)	AQ	10,000	2-16-93
Robert Jeff White (Dallas Co.)	AQ/SW	10,000	7-14-97
Edward Bodensteiner (Des Moines)	UT	3,200	3-31-96
James LaFollette d/b/a Jim's Tree Service; Kurt Douglas (Marion Co.)	AQ/SW	2,000	2-16-98
Elery Fry; Allen Fry; Becky Sandeen (Monroe Co.)	SW	6,000	1-20-96
Russell Barkema d/b/a Barkema Construction (Wright Co.)	AQ/SW	1,000	3-31-98
#*Harold Unternahrer (Washington Co.)	AFO	700	5-01-99
Hofer's Danceland Ballroom (Walford)	WS	3,200	4-19-97
Hofer's Danceland Ballroom (Walford)	WS	100	4-23-99
Ray Stamper; Bryan Zenor (Polk Co.)	SW	2,000	12-12-98
Russell Zook d/b/a Haskin's Recycling (Washington Co.)	AQ/SW	5,000	12-19-98
Phillips Recycling; Jeff Phillips (Story Co.)	WW	1,800	3-06-99
Greg Morton; Brenda Hornyak (Decatur Co.)	SW/AQ/WW	3,000	11-04-98
Jim Walker (Johnson Co.)	AQ/SW	3,000	2-14-99
Iowa Millenium Investors, LLC (Sumner)	UT	4,000	10-12-99
Daryl & Karen Hollingsworth d/b/a Medora Store (Indianola)	UT	10,000	
Jim Ledenbach d/b/a Paper Recovery Company (Cedar Rapids)	SW	5,000	1-23-00
Organic Technologies Corp.; Tim Danley; Ken Renfro (Warren Co.)	SW/WW	10,000	5-26-00
Crestview Mobile Home Park (Ames)	WW	10,000	8-30-00
Lindahl & Sons Salvage (Boone)	AQ/SW	10,000	11-29-00
Wisconsin North dba National Petroleum, Inc. (Clinton)	UT	5,000	8-04-01
Wisconsin North dba National Petroleum (Clinton)	UT	2,840	8-21-01
Michael Bauer (Davenport)	UT	5,100	3-13-01
Dennis Seversson d/b/a Huxley Dry Cleaners (Huxley)	AQ	4,500	8-01-01
Bee Rite Tire Disposal; Jerry Yeomens (Marshall Co.)	SW	10,000	9-18-01
Marvin Oberly (Burlington)	WW	1,300	6-27-01
Richard Davis (Monroe Co.)	AQ	8,000	6-25-02
M-F Real Estate; Fred "Butch" Levell (Carter Lake)	HC	3,200	8-18-02
Ryan Barton; Theresa Barton (Kellerton)	AQ/SW	1,000	5-27-02
Jerry Chatfield; North Iowa Truck and Tractor (Floyd)	SW/WW	3,000	8-18-02
Mobile World, L.C. (Camanche)	WW	2,000	5-27-02
Oran Pub & Grill (Fairbank)	WS	100	6-03-02
# John C. Kelso (Worth Co.)	AFO	1,500	7-29-02
M.A., Inc.; Spring Grove Mobile Home Park (Burlington)	WW	7,000	11-01-02
M.A., Inc.; Westside Park for Mobile Homes (Lee Co.)	WW	7,000	11-01-02
Van Meter Development Corp.; Whispering Pines (Van Meter)	WW	2,000	12-01-02
Harry F. Trafton; Trafton Enterprises; Interstate Lounge	UT	6,800	1-13-03
John Jolin; Michael Kolbold (Sioux City)	UT	5,760	6-23-02
Dave Paplow (Indianola)	AQ/SW	5,000	7-05-02
Meadow Mist Motel (Fayette Co.)	WS	500	8-12-02
Park View Motel (Oelwein)	WS	750	9-06-02
Air Bears II (Thompson)	WS	300	7-13-02
Dale Schaffer (Union Co.)	AQ/SW	10,000	11-05-02
Iowa Skate U (Iowa Falls)	WS	600	5-11-02
Iowa Skate U (Iowa Falls)	WS	500	5-11-01
* Bog's Bar (Langworth)	WS	200	6-19-03
Mike Messerschmidt (Martinsburg)	AQ/SW	500	
# Carl Simon (Dubuque Co.)	AFO	5,000	1-17-03
Plantation Village Mobile Home Park (Burlington)	WS	500	6-06-03
Jolly Roger Recreation and Marina, Inc. (North Liberty)	WS	600	7-14-03
Mitchell Town Pump; Jeremy Mostek (Mitchell)	WS	500	7-09-02
# Kevin Hohbach (Taylor Co.)	AFO	2,000	6-30-03

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Mark Buringrud fdba Carpenter Bar & Grill (Carpenter)	WS	2,500	10-26-01
Johnny B Good's (Dyersville)	WS	500	8-01-03
Honey Creek Campground (Crescent)	WS	1,000	4-30-02
TOTAL		226,089	

The following administrative penalties have been appealed:

NAME/LOCATION	PROGRAM	AMOUNT
Dennis Malone & Joanne Malone (Morning Sun)	UT	600
Dallas County Care Facility (Adel)	WW	2,500
Richard Sprague (Tripoli)	AQ/SW	5,000
Brittany Estates Addition (Manchester)	WS	4,000
Robert Frees; Elizabeth Mathes (Washington Co.)	SW	1,000
Robert Diehl (Clarke Co.)	WW/WS	5,000
Gerald and Judith Vens (Scott Co.)	FP	5,000
Affordable Asbestos Removal, Inc.; Jeffery Intlekofer (Ft. Madison)	AQ	10,000
# Iowa Select Farms, L.P.; AG Waste Consultants (Hamilton Co.)	AFO	3,000
# Dan Witt (Clinton Co.)	AFO	3,000
Twin Anchors R.V. Resort, Inc. (Story Co.)	WW	5,000
Freisen of Iowa, Inc. (Storm Lake)	AQ	10,000
Linwood Mining & Minerals Co. (Davenport)	AQ	10,000
R. Excavating, Inc.; Randy Golden (Pottawattamie Co.)	WW	10,000
# Floyd Kroeze (Butler Co.)	AFO	3,000
Wayne Wheatley; Wheatley Auto and Truck Service (Walnut)	UT	3,900
Midway Oil Company (West Branch)	UT	7,300
Midway Oil Company (Davenport)	UT	5,790
Long Branch Maintenance Corp. (Earlham)	WW	5,000
Sir Fredericks, Inc.; Fred Scherle (Ankeny)	UT	2,280
Feeders Grain Supply; James & Carolyn Curtis (Corning)	WW/HC	6,000
LeMars, City of	WW	10,000
Dallas County Care Facility (Adel)	WW	5,000
Keith Shoterau; Hopp Construction Co. (Shelby Co.)	WW	5,000
Robert Ward (Lee Co.)	WW	1,450
Partners Four Investments, Inc. (Marble Rock)	UT	5,280
William Habhab (Fort Dodge)	SW	1,500
Piper Motor Co.; Bruce Piper d/b/a Super Clean Car Wash	WW	10,000
Jones Co. Conservation Board; Central Park	WS	250
Arthur, City of	WW	2,000
James Wilson; Retha Wilson; William Wilson (Shenandoah)	UT	4,740
Emer Carlson (Fairfield)	AQ	6,500
ITWC, Inc. (Brooklyn)	AQ	7,500
Wellington Environmental (Iowa City)	AQ	1,000
Kevin Wallerich (Keota)	SW/WW	500
# Frank Siemans (Wright Co.)	AFO	2,500
# Doug Wedemeyer (Adair Co.)	AFO	2,500
Waukon Golf and Country Club (Waukon)	UT	2,480
Mt. Pleasant, City of	WW	500
Lehigh Portland Cement Co. (Mason City)	WS	300
Richard and Charlotte Caves (Oskaloosa)	HC	10,000
Garry B. Pellett; Pellett Chemical Co.; Charles R. South	UT	2,645
Clifton Clark (Moorhead)	AQ/SW	1,500
# Kenneth Dahlhauser (Whittemore)	AFO	2,500
Peter Cook (Grand Mound)	AQ/SW	5,000
Stanley Siems (Hardin Co.)	AQ/SW	7,500
Walker Brothers Livestock Corp. (Washington)	WW	5,000
Schell Family Partnership (Boone Co.)	HC/SW	5,000

River City Development; Russell Hardy (Mason City)	UT	2,480
Chelsea, City of	WW	3,000
Lewis Contracting Co.; Randy Lewis (Red Oak)	WW	3,500
# Glen Samuelson (Adams Co.)	AFO	1,000
# Merrell Butler (Adams Co.)	AFO	1,000
# Butler Custom Pumping, Inc.; Robert Butler (Adams Co.)	AFO	2,500
# Anthony Wendler (Emmet Co.)	AFO/SW	3,000
# Kuntz Farms, Inc. (Des Moines Co.)	AFO	1,000
Diwan, LLC; Ranbir Thakur (Davenport)	UT	10,000
Landfill of Des Moines, Inc. (West Des Moines)	SW	10,000
# Doug Osweiler (South English)	AFO	5,000
Langman Construction, Inc. (Bettendorf)	WW	10,000
# Ray Slach (Cedar Co.)	AFO	3,000
# Iowa Select Farms, LP; Swartz Finisher Farm (Hardin Co.)	AFO	500
# Einck Dairy; D & J Pumping (Winneshiek Co.)	AFO	4,000
# Dan Fox d/b/a Modern Manure Hauling; Jason Fox; Larry Peterson (Shelby Co.)	AFO	5,000
# Natural Pork Production, II LLC (Shelby Co.)	AFO	5,000
# Larry Noel (Floyd Co.)	AFO	2,000
# New London Dairy; Steve Walter dba Walter & Sons	AFO/RWA	5,000
Roger Eblen; Eblen Develop.; Duane Menke;		
(Whispering Woods - Council Bluffs)	WW	10,000
Frederika's Stein & Dine (Frederika)	WS	2,875
# Natural Pork Production II (Shelby Co.)	AFO	10,000
Denny Geer (Taylor Co.)	AQ/SW	3,000
Casey's General Stores, Inc. #2472 (Nichols)	WS	5,000
Gingerich Well & Pump; Corwin Gingerich; Klint Gingerich	WS	4,300
# Iowa Select Farms, L.P.; Kerrigan Facility (Union Co.)	AFO	1,000
# D & D Ag Enterprises, LLC (Union Co.)	AFO	2,000
Country Terrace Mobile Home Park (Ames)	WW	10,000
# Iowa Select Farms, Inc.; Clarke Sow (Clarke/Union Co.)	AFO	5,000
Brad Taylor (Pottawattamie Co.)	AQ/SW	3,500
Larry Nuehring (Rockwell)	AQ/SW	500
# Denny Holtrip (Cherokee Co.)	AFO	750
Westfair Association, The (Council Bluffs)	WS	1,500
# Poverty Acres Feedlot, Inc. (Sioux Co.)	AFO	3,500
# Southern Waste Handling, Inc. (Mr. Ayr)	AFO	7,000
Cedar Rapids, City of	WW	1,000
The Welco Group; David Levin; Kwik Trip (Camanche)	UT	3,500
Country Living MHP (Altoona)	WW	5,000
Kent Kiburz (Humboldt Co.)	SW	2,500
Strawberry Point, City of	WW	10,000
Casey's Marketing Co. (Jefferson)	UT	5,224
Edward Rasch; Easter Enterprises, Inc. (Norwalk)	UT	3,000
Dennis Bandstra d/b/a Big Dutch (Sioux Center)	AQ/SW	1,000
D & S Swine L.L.C. (Humboldt Co.)	WW	1,000
# River Valley Farms (Mahaska Co.)	AFO	750
Central Counties Cooperative (Kellogg)	AQ	5,000
B & H Food & Gas, Inc. (Davenport)	UT	10,000
U.S. Nation Mart, Inc. (Davenport)	UT	10,000
Tegh, Inc. (Bettendorf)	UT	8,500
Custom Feeds, Inc. (Muscatine)	AQ	10,000
# Tom Wageman Farm (Shelby Co.)	AFO	750
Greenman Technologies of Iowa, Inc. (Des Moines)	SW	2,000
Siouxland Energy & Livestock Cooperative (Sioux Center)	AQ/HC/WW	10,000
Harlan Clasen (Rock Rapids)	AQ/SW	10,000
W & H Cooperative Oil Co.; Ron Ely (Humboldt Co.)	HC	1,250

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Russell and Kay Barkema; K.R. Construction (Wright Co.)	AQ/SW	7,000
TOTAL		471,884

The following administrative penalties were paid last month:

NAME/LOCATION	PROGRAM	AMOUNT
# Iowa Select Farms, L.P.; Stockdale Sow Unit (Hardin Co.)	AFO	3,100
# Brett Bachman (Sac Co.)	AFO	750
* Jerry Feilen and Rick Bain (Pottawattamie Co.)	AQ/SW	25
* John and Bernice Danner (Lucas Co.)	WW	75
# Richard Bockenstedt (Delaware Co.)	AFO	1,000
F. J. Krob & Co. (Linn Co.)	WW	1,000
*#Roger Bockes, et. al. (Tama Co.)	AFO	100
K & E Limited Partnership (Ames)	AQ	1,000
Rockford Construction (Ames)	AQ	1,000
Monsanto Company (Aplington)	AQ	2,000
Hidden River Campground (Tipton)	WS	1,000
# Frank Siemans (Wright Co.)	AFO	50
#*Avery Feeder Pig Co. (Humboldt Co.)	AFO	250
# Dave Hansel (Hamilton Co.) (Interest)	AFO	390
# Tom Schramm (Sac Co.)	AFO	500
Grinnell Properties, Inc.; David Hamilton (Grinnell)	UT	3,000
*#Robert Fisher (Hamilton Co.)	AFO	100
Con-Struct, Incorporated (Ames)	AQ	1,000
# Midwest Farmers Cooperative (Sheldon)	AFO	2,000
#*Van Middendorp Dairy (Sioux Co.)	AFO	250
Krause Gentle Corp. d/b/a Kum & Go (West Des Moines)	AQ	2,000
Sully Transport; Bice Oil Co.; Tim Bice (Guthrie Co.)	WW/HC	4,000
TOTAL		24,590

The following penalties were deferred:

Tama Beef Packing, Inc. (Tama)	WW/SW	1,000
Joel (Brad) Chambers (Strawberry Point)	WW/WS	1,000
Caldwell Meats, Inc.; James Caldwell (Marshalltown)	UT	1,990

Department of Natural Resources Environmental Protection Commission Attorney General Referrals November 1, 2003

Name, Location & Region #	Program	Alleged Violation	DNR Action	New or Updated Status	Date
ABC Disposal Systems Hiawatha (1)	Solid Waste	DNR Defendant	Defense	Petition Filed Hearing Ruling for State Notice of Appeal Appellant's Proof Brief Appellee's Proof Brief	6/26/02 10/07/02 12/26/02 1/28/03 4/25/03 6/27/03
Bachman, Brett Bachman Pork, Inc. Sac Co. UPDATED	(3) Animal Feeding Operation	Failure to Update Plan	Order/Penalty	Referred Admin. Penalty Paid (\$750)	10/20/03 11/03/03

Bauer, Michael Davenport UPDATED	(6)	Underground Tank	Site Assessment	Order/Penalty	Referred Petition Filed State's Motion for Partial Summary Judgment Order Granting Partial Summary Judgment State Motion to Compel Order Granting Motion to Compel State Motion for Sanctions Order Granting Sanctions (\$500) State Motion for Additional Sanctions Default Judgment	2/18/02 8/08/02 1/27/03 4/17/03 8/06/03 8/24/03 9/10/03 9/29/03 10/16/03 11/19/03
Bee Rite Tire Disposal, Inc. Rhodes, State Center (5)		Solid Waste	Solid Violations	Waste Order/Penalty	Referred	5/20/02
BCD Corporation Council Bluffs (4)		Wastewater	Operation Permit; Prevention Violation	Without Pollution Plan	Order Referred	7/22/02
Buhr, Lee; Meadow Mist Motel Park View Motel Oelwein (1)		Drinking Water	Monitoring/Reportin g-Bacteria, Nitrate; Public Notice	Order/Penalty	Referred	3/17/03
Buringrud, Mark fdba Carpenter Bar & Grill Carpenter (2)		Drinking Water	Monitoring/Reportin g-Bacteria, Nitrate	Order/Penalty	Referred	9/15/03
Chatfield, Jerry d/b/a North Iowa Truck and Tractor Floyd (2)		Solid Waste Wastewater	Illegal Operation Permit	Disposal; Without	Order/Penalty Referred	10/21/02
Davis, Richard Wapello Co. (6)		Air Quality	Asbestos	Order/Penalty	Referred Petition Filed Application for Default Order Granting Judgment on Default Motion for Contempt Contempt Hearing Date	8/19/02 11/27/02 2/01/03 3/14/03 6/05/03 9/15/03
Golden, Randy S.; R. Excavating Council Bluffs (4)		Wastewater	DNR Defendant	Defense	Petition Filed Answer	4/16/02 5/09/02

Construction
Without Permit;

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Handlos, Lawrence Audubon Co. (4)	Animal Feeding Operation; Wastewater	Failure to Submit MMP; Operation Violations; Stormwater – Operation Without Permit	Referred to Attorney General	Referred	7/21/03
Hansel, Dave Hamilton Co. (2) UPDATED	Animal Feeding Operation	Failure to Submit Plan; Record Keeping; Uncertified Applicator	Order/Penalty	Referred Admin. Penalty/Interest Paid (\$1690)	2/17/03 10/31/03
Harper, David Harper's Marina; Jolly Roger Campground North Liberty (6)	Drinking Water	Monitoring/Reporting – Bacteria, Nitrate; Permit Renewal Fees; Public Notice	Order/Penalty	Referred	8/18/03
Hohbach, Kevin Red Oak (4)	Animal Feeding Operation	Application in Excess of Crop Usage Rate	Order/Penalty	Referred	9/15/03
Iowa Select Farms, L.P. Sow #7 Hamilton Co. (4)	Animal Feeding Operation	Prohibited Discharge – Confinement	Referred to Attorney General	Referred Petition Filed Trial Date	2/18/02 2/03/03 1/27/04
Johansen, Don d/b/a Bog's Bar Langworthy (1)	Drinking Water	Monitoring/Reporting- Bacteria	Order/Penalty	Referred	11/18/02
Johnson, Shelly Lynn d/b/a Oran Pub & Grill Fairbank (1)	Drinking Water	Monitoring/Reporting-Nitrate; Permit Renewal Fee; Public Notice	Order/Penalty	Referred	11/18/02
Jolin, John; Michael Kolbold Sioux City (3)	Underground Tank	UST Closure	Order/Penalty	Referred	3/17/03
Kelso, John C. Worth Co. (2)	Animal Feeding Operation	Failure to Submit Plan	Order/Penalty	Referred	11/18/02
Kramer, John and Laura Johnny B Good's Dyersville (1)	Drinking Water	Monitoring/Reporting, Bacteria, Nitrate; Public Notice	Order/Penalty	Referred	10/20/03
M.A., Inc. and Mark Anderson; Spring Grove MHP; Westside Park for Mobile Homes	Wastewater	Monitoring/Reporting; Operational Violations;	Order/Penalty	Referred	1/21/03

Burlington (6)		Operator Discipline		y		
Matrix Metal, LLC d/b/a Keokuk Steel Castings Keokuk (6)	Air Quality	Emission Limits		Referred to Attorney General	Referred	1/22/02
Meixner, Larry; Air Bears II Thompson (2)	Drinking Water	Monitoring/Reporting – Bacteria; Nitrate		Order/Penalty	Referred	4/21/03
Messerschmidt, Mike Keokuk Co. (6)	Air Quality Solid Waste	Open Burning; Illegal Disposal		Order/Penalty	Referred	7/21/03
Mobile World L.C. Clinton (6)	Wastewater	Monitoring/Reporting; Operational Violations		Order/Penalty	Referred	11/18/02
Moore, C. D. d/b/a Iowa Skate U Iowa Falls (2)	Drinking Water	Operation Without Permit; Monitoring/Reporting – Bacteria, Nitrate		Order/Penalty	Referred	5/19/03
Mostek, Jeremy Osage (2)	Drinking Water	Construction Without Permit; Monitoring/Reporting – Bacteria, Nitrate; MCL – Bacteria; Public Notice		Order/Penalty	Referred	9/15/03
Nelson, Paul d/b/a Crestview Mobile Home Park Ames (5)	Wastewater	Discharge Limits		Order/Penalty	Referred Petition Filed Default Entered	2/19/01 3/20/02 11/12/02
Oberly, Marvin Burlington (6)	Wastewater	Operation Without Permit		Order/Penalty	Referred	7/15/02
Organic Technologies; Tim Danley; Ken Renfrow; Mike Danley Warren Co. (5) UPDATED	Solid Waste	Permit Violations		Referred to Attorney General	Referred Petition Filed Application for Temporary Injunction Temporary Injunction Trial Date Partial Judgment (Clean-up Order) Contempt Application Contempt Hearing Date Contempt Finding and Civil Penalty (\$100,000 and 30 Days in Jail –	12/15/97 10/02/98 2/04/99 4/19/99 9/13/00 9/28/00 12/12/02 2/20/03 2/20/03 7/09/03 8/01/03

Environmental Protection Commission Minutes

December 2004

					Suspended until 7/8/03) Hearing Regarding Contempt Order Regarding Bond/Cleanup Deadline Bond Posted State Objections to Bond Ruling Denying Objections to Bond Status Hearing Date	8/01/03 8/20/03 9/18/03 12/02/03
Paplow, Dave Indianola (5)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Order/Penalty	Referred		3/17/03
Roquette America, Inc. Keokuk (6)	Air Quality	Violations – Other	Order	Referred		4/21/03
Schaffer, Dale Kent (4)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Order/Penalty	Referred		4/21/03
Schlag, Dana d/b/a Plantation Village Mobile Home Park Burlington (6)	Drinking Water	MCL; Public Notice Monitoring/Reporting – Radioactivity	Order/Penalty	Referred		7/21/03
Schoenberr, R. B. d/b/a Long Branch Tavern Monmouth (1)	Drinking Water	Permit Renewal	Orders/Penalties	Referred Court Order Re-Referred		6/20/97 12/09/98 11/21/02
Simon, Carl Dubuque Co. (1)	Animal Feeding Operation	Prohibited Discharge Confinement; Freeboard	– Order/Penalty	Referred		7/21/03
Snoody, Pat Honey Creek Campground Crescent (4)	Drinking Water	Monitoring/Reporting-Bacteria, Nitrate; Public Notice	Order/Penalty	Referred		10/20/03
Trafton Environmental, Inc.; Harry Trafton; Interstate Lounge, Inc. Underwood (4)	Underground Tank	UST Closure	Order/Penalty	Referred		2/17/03
Van Meter Development Corp.; C. Dave Albright Polk Co. (5)	Wastewater	Operation Without Permit; Pollution Prevention Plan Violations	Order/Penalty	Referred		2/17/03
Wisconsin North, LLC d/b/a K & K Food & Gas, Inc.;		Corrective Action; Failure to Report a				

Khushat Singh Davenport UPDATED	(6)	Underground Tank	Release; Detection	Leak	Referred to Attorney General	Referred Petition Filed	3/17/03 11/07/03
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Wisconsin North, LLC d/b/a National Petroleum Co. UST #8606997 Clinton UPDATED	(6)	Underground Tank	Failure to Corrective CDR	Initiate Action-	Referred to Attorney General	Referred Petition Filed	10/21/02 11/07/03
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7/02/90	Keokuk Savings Bank and Trust; Keokuk Coal Gas Site	6	Site Registry	HW	Tack	Hearing continued. Status report requested from land quality bureau on 12/1/99.
7/30/90	Key City Coal Gas Site; and Howard Pixler	1	Site Registry	HW	Tack	10/03 – Site closure assessment underway by DNR.
5/12/92	Paris & Sons, Inc.	1	Site Registry	HC	Wornson	Bankruptcy dismissed. Negotiations with creditor to enroll in LRP and complete site assessment.
9/20/95	FKI Industries, Inc.; Fairfield Aluminum, Inc.	6	Admin. Order	WW/HC	Tack	2/03 – Site assessment underway.
7/22/97	Robert P. Frees; Elizabeth R. Mathes	6	Admin. Order/Penalty	SW	Tack	Hearing continued. Site visit to coordinate settlement set for 12/4/03.
11/30/98	Robert Diehl	5	Admin. Order/Penalty	WW/WS	Murphy	NPDES permit issued 3/28/02 with compliance schedule. Continuing to monitor for compliance.
12/16/98	Richard Swailes		Permit Denial	FP	Clark	11/19/03 – Modified permit to be issued. Appeal withdrawn. Case closed.
3/18/99	Ag Processing, Inc. (Sergeant Bluff)		Title V Operation Permit Conditions	AQ	Preziosi	4/03 – Settled. Agreement reached. Consent order to be signed.
4/26/99	Gerald and Judith Vens	6	Admin. Order/Penalty	FP	Clark	9/02/03 – Vens rejects Dept. settlement offer.
10/22/99	Robert Fisher	2	Admin. Order/Penalty	AFO	Clark	9/30/02 – Penalty settlement offer accepted. Monthly installments commenced 11/01/02.
12/01/99 12/08/99	Iowa Select Farms, L.P./AG Waste Consultants, Inc.	2	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
4/14/00	Stateline Cooperative	2	Admin. Order	HC	Wornson	Tier 2 report submitted 11/28/00. High risk. review for further corrective action.
4/24/00	Carroll, City of	4	Permit Conditions	WW	Hansen	8/15/03 – Plans and specs received for relief sewer. 8/2/03 – Dept. engineer letter sent with comments on plans and specs and compliance schedule approved by Dept. Schedule to be placed in order. 10/13/03 – Dept. construction permit for WWTF improvements with final schedule issued. 10/31/03 – Consent order drafted for staff review. 11/7/03 – Consent order sent to City for review and mayor's signature.
4/26/00	State Wide Metal Recycling, Inc.; Fred Bovee	5	Admin. Order	SW/HC	Tack	Delaware Ave. site clean-up is complete. Broadway site is nearly completed. Final waste removal scheduled for 4/03.
6/14/00	Quality Mat Co., Inc.	1	Admin. Order/Penalty	AQ	Book	4/3/01 – Decision affirming the order. 5/21/01 – EPC finalized decision. Settled. 8/01 – Admin. Consent Order signed by facility for payment plan. Signed order received.

						First payment received 12/21/01. Second payment received 12/15/02.
7/13/00	Dan Witt	6	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
8/11/00	Twin Anchors RV Resort	5	Admin. Order/Penalty	WW	Tack	Construction completed. Proof of costs submitted. Awaiting full closure of lagoons.
9/05/00	Thomas Kronlage	1	Admin. Order/Penalty	AFO	Clark	9/18/03 – Partial penalty payment received without Dept. approval. Further negotiations necessary.
10/02/00	Agriprocessors, Inc.	1	Variance Denial		Murphy	Appeal dismissed. Case closed.
10/03/00	Friesen of Iowa, Inc.	3	Admin. Order/Penalty	AQ	Preziosi	Settled. Awaiting penalty payment.
10/06/00	Linwood Mining & Mineral Corp.	6	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
11/20/00	Randy Golden d/b/a R. Excavating	4	Admin. Order/Penalty	WW	Tack	Petition for judicial review filed. AG to handle.
12/01/00	Postville, City of	1	Admin. Order	WW	Murphy	8/03 – Permit issued; amended AO will settle appeal.
2/27/01	Floyd Kroeze	2	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
5/29/01	Wayne Wheatley fdba Wheatley Auto and Truck Service	3	Admin. Order/Penalty	UT	Wornson	Settlement agreement. Hearing continued. Tier 2 received – approved high risk. Negotiate penalty and further corrective action.
6/27/01	Tama Beef Packing, Inc.	5	Admin. Order/Penalty	SW/WW	Hansen	11/20/01 – Tama Beef filed for bankruptcy. Hearing continued by ALJ due to automatic stay provision. 7/23/03 – FO5 confirmed new company began operating plant. Dept. to issue order canceling penalty. 11/6/03 – Amended order issued. ALJ order issued 11/20/03 dismissing appeal. Case closed.
8/09/01	Nevada, City of	5	Admin. Order/Penalty	UT	Wornson	Compliance achieved. Received partial penalty. Working on SEP.
8/13/01	ABC Disposal Systems, Inc.	1	Admin. Order/Penalty	SW	Tack	4/15/02 – Proposed decision upheld by EPC. Petition for judicial review filed. 12/26/02 - District Court ruled in favor of Dept. 1/28/03 – Appealed to Iowa Supreme Court.
8/17/01	Long Branch Maintenance Corp.	5	Admin. Order/Penalty	WW	Hansen	2/28/03 – Proposed consent order with attachments sent to facility attorney for review/signature. 3/03 – Further information concerning WWTF sent by facility engineer. 4/03 – Revised consent order drafted.
10/02/01	Daryl Larson	6	Admin. Order	AFO	Clark	Negotiating before filing.
11/01/01	Feeders Grain & Supply, Inc.; James Curtis; Carolyn Curtis	4	Admin. Order/Penalty	WW/HC	Wornson	Compliance mostly achieved. Confirmational monitoring. Negotiating penalty.
11/07/01	Sir Fredericks, Inc.	5	Admin. Order/Penalty	UT	Wornson	Tier 2 submitted. CADR required. Negotiating penalty.
11/26/01	LeMars, City of	3	Admin. Order/Penalty	WW	Hansen	8/22/02 – Informal meeting held to discuss settlement. On hold until companion case resolved. 10/03 – Letter to City attorney regarding appeal resolution. 11/21/03 – Dept. received response from City attorney regarding City's compliance status with order.
11/27/01	Dallas County Care Facility	5	Admin. Order/Penalty	WW	Hansen	10/03 – Letter to County attorney regarding appeal resolution.
12/17/01	Keith Stoterau; Hopp Construction Co., Inc.	4	Admin. Order/Penalty	WW	Murphy	10/30/03 – Erosion controls installed. DNR settlement demand.
1/09/02	Roger Eblen; Roger Eblen Development; Duane Menke	4	Order/Penalty	WW	Murphy	Hearing set for 1/13/04. Settlement discussions with one party. Motion for default vs. Eblen filed 11/26/03.
1/18/02	Robert Ward	6	Order/Penalty	WW	Tack	Clean-up underway.

1/23/02	Clearview Mobile Home Park	6	Permit Conditions	WW	Hansen	3/29/02 – Dept. letter to MHP attorney requesting more information on appeal issues. 9/02 – Letter received from MHP attorney. 10/31/02 – Construction permit issued for improvement to lagoon system. 10/31/03 – Update on construction project requested from Dept. engineer.
1/29/02	Partners Four Investments, Inc.	2	Order/Penalty	UT	Wornson	Tier 2 submitted. Negotiating penalty.
2/20/02	Storm Lake, City of	2	Permit Conditions	WW	Hansen	Hearing rescheduled for 4/25/03 to allow City to complete TKN monitoring requested by WW permits staff. 3/03 – One year of TKN monitoring completed by City. Review of data completed by WW permits staff. 4/13/03 – Dept. letter to City attorney regarding review of TKN data and Dept. conclusions regarding such data. Hearing re-set for 6/20/03. 6/03 – City requested continuance to do stream study regarding TKN and NH3N in stream. ALJ granted continuance. 7/25/03 – Dept. staff reviewing City's stream study sampling plan. 8/7/03 – Dept. memo to City engineering concerning City's TKN and NH3N sampling plan for stream study.
4/11/02	William Habhab	2	Order/Penalty	SW	Tack	Site enrolled in EPA Brownfield Pilot Project by City of Ft. Dodge. Site testing completed 10/02. Remediation/clean-up scheduled for 2003.
5/01/02	Piper Motor Company, Inc.; Bruce Piper d/b/a Super Clean Car Wash	6	Order/Penalty	WW	Murphy	ALJ decision 7/3/03. Appeal to EPC 8/1/03. EPC tabled to 11/17/03. Settlement possible.
5/07/02	Jones County Conservation Board; Central Park	1	Order/Penalty	WS	Hansen	6/30/03 – Compliance status report requested from WS section. 7/29/03 – Report received from WS section. 10/03 – Dept. letter to Jones CCB regarding appeal. 11/17/03 – Response received from Jones CCB regarding compliance with order requirements.
5/08/02	James and Retha Wilson	4	Order/Penalty	UT	Wornson	Compliance initiated.
5/09/02	Arthur, City of	3	Order/Penalty	WW	Hansen	7/31/03 – Dept. letter regarding resolution of appeal. 8/29/03 – Further information requested from FO. 9/03 – Discussion with City regarding possible SEP project. 10/28/03 – SEP proposal received from City for resolving appeal. 11/10/03 – City informed of conditions for SEP.
5/10/02	Wellington Environmental	6	Order/Penalty	AQ	Book	3/03 – Settled. Consent order signed. Penalty is a non-monetary SEP to be conducted over the next 9 months. Completed half of the required 12 classes, deadline for remaining 6 classes moved to August, 2004, due to planning and financial difficulties.
5/13/02	Avery Feeder Pig Co.	2	Order/Penalty	AFO	Clark	5/01/03 – Settled. Monthly installment commenced 5/15/03.
5/23/02	Emer Carlson	6	Order/Penalty	AQ	Book	Attorney left client. Start negotiating process over with Carlson. 11/03 – Sent to DIA to be set for hearing.

5/30/02	Paul Nagle	5	Order/Penalty	AQ	Book	Consent amendment agreed to with reduced penalty and payment plan. Payments on schedule.
6/03/02	Richard Caves; Charlotte Caves	5	Order/Penalty	HC	Tack	11/02 - Richard Caves' bankruptcy pending. Negotiating resolution.
7/02/02	ITWC	5	Order/Penalty	AQ	Preziosi	Settled. Awaiting penalty payment.
7/02/02	Wellington Environmental (Iowa City)	6	Order/Penalty	AQ	Book	3/03 – Settled. Consent amendment signed. Penalty to is a non-monetary SEP to be conducted over the next 9 months.
7/09/02	Waukon Golf & Country Club	1	Order/Penalty	UT	Wornson	Compliance achieved. Settled. Awaiting penalty payment.
7/10/02	Kevin Wallerich	6	Order/Penalty	SW/WW	Tack	9/26/02 – Amended order issued.
7/15/02	Grinnell Properties, Inc.; David Hamilton	5	Order/Penalty	UT	Wornson	Partial settlement proposed. Hearing postponed indefinitely. Tier 2 submitted 3/3/03; no action required except free product reports. 8/5/03 – Settlement offer. Settlement achieved. 11/19/03 – Penalty paid. Case closed.
7/18/02	Mt. Pleasant, City of	6	Order/Penalty	WW	Hansen	\$500 penalty payment received for uncontested portion. 8/03 –Letter to City attorney regarding resolving appeal. 10/30/03 – Letter to City attorney regarding revised report. 11/03 – Response from City attorney regarding revised report.
7/23/02	Doug Wedemeyer	4	Order/Penalty	AFO	Murphy	9/23/03 – DNR letter requesting update.
7/24/02	Frank Siemens	2	Order/Penalty	AFO	Clark	11/18/03 – Siemens makes small unilateral settlement payment. Further negotiations necessary.
7/31/02	Nevada, City of	5	Order/Penalty	WW	Murphy	Settled. Awaiting SEP payment.
8/12/02	Garry B. Pellett; Pellett Chemical Co., Inc.	4	Order/Penalty	UT	Wornson	Late appeal. Closure sampling received. Further assessment required. Received delinquent tank fees. Negotiating penalty conditioned upon initiation of Tiered assessment.
8/15/02	Lehigh Portland Cement	2	Order/Penalty	WS	Clark	Negotiating before filing.
8/23/02	Clifton Clark	4	Order/Penalty	AQ/SW	Tack	Inspection on 6/27/03. Significant progress made on cleanup. Continued efforts needed.
8/25/02	Kenneth Dahlhauser	2	Order/Penalty	AFO	Clark	8/29/03 – Left message with Dahlhauser's attorney to return call regarding potential settlement.
9/03/02	Peter Cook	6	Order/Penalty	AQ/SW	Book	Settled. Awaiting clean-up and penalty payment.
10/01/02	Stan Siems	2	Order/Penalty	AQ/SW	Tack	Clean-up underway. Expected to be completed by mid September, 2003. Penalty to be negotiated following clean-up.
10/02/02	Sioux City, City of	3	Permit Conditions	FP	Clark	Negotiating before filing.
10/21/02	Caldwell Meats, Inc.; James Caldwell	5	Order/Penalty	UT	Wornson	Compliance initiated. Settlement achieved. Case closed.
11/04/02	Walker Bros. Livestock Corp.	6	Order/Penalty	WW	Murphy	8/28/03 – Settlement offer.
11/12/02	Sully Transport, Inc.; Bice Oil Co.; Tim Bice	4	Order/Penalty	WW/HC	Wornson	Tier 1 completed. Negotiating penalty.
11/18/02	Randy Lewis & Lewis Contracting Co.	4	Order/Penalty	WW	Murphy	8/29/03 – Settlement offer. 11/24/03 – Sent to DIA.
11/22/02	Schell Family Partnership	5	Order/Penalty	SW/HC	Tack	Waiting for engineer's cost estimates.
11/27/02	River City Development; Russell Hardy	2	Order/Penalty	UT	Wornson	Appeal untimely. Tier 1 compliance initiated.
11/27/02	Chelsea, City of	5	Order/Penalty	WW	Murphy	9/18/03 – DNR letter. Will monitor for compliance through winter of 2004.

1/13/03	Merrell Butler	4	Order/Penalty	AFO	Murphy	2/12/03 – Settlement offer.
1/13/03	Glen Samuelson	4	Order/Penalty	AFO	Murphy	2/12/03 – Settlement offer.
1/13/03	Butler Custom Pumping; Robert Butler	4	Order/Penalty	AFO	Murphy	2/12/03 – Settlement offer.
1/13/03	Langman Construction; Charles Langman	5	Order/Penalty	WW	Murphy	10/30/03 – Settled. Awaiting penalty payment.
1/14/03	Monsanto	2	Order/Penalty	AQ	Preziosi	Settled. Awaiting penalty payment.
1/24/03	Kuntz Farms, Inc.	6	Order/Penalty	AFO	Clark	Negotiating before filing.
1/29/03	A.R. Wendler; W.B. Contract Swine Production	3	Order/Penalty	AFO	Tack	3/18/03 – Settlement offer sent.
1/31/03	DIWAN, L.L.C.	6	Order/Penalty	UT	Wornson	Hearing scheduled for 12/11/03. Settlement proposed.
2/05/03	Landfill of Des Moines, Inc.	5	Order/Penalty	SW	Tack	Physical site closure completed. Waiting for closure certification from engineer.
2/10/03	Doug Osweiler	6	Order/Penalty	AFO	Book	Negotiating before filing.
2/14/03	United Suppliers, Inc.	5	Permit Conditions	WW	Hansen	3/03 – Appeal reviewed by WW permits section. 10/31/03 – Dept. letter to Company attorney regarding meeting to discuss appeal.
2/24/03	Ray Slach	6	Order/Penalty	AFO	Clark	Negotiating before filing.
3/04/03	Iowa Select Farms; Swartz Finisher Farm	2	Order/Penalty	AFO	Clark	Negotiating before filing.
3/06/03	Einck Dairy, Inc.; D & J Pumping, Inc.	1	Order/Penalty	AFO	Clark	Negotiating before filing.
4/01/03	Dan Fox d/b/a Modern Manure Hauling; Larry Peterson	4	Order/Penalty	AFO	Murphy	Negotiating before filing.
4/04/03	Natural Pork Production II, LLP (03-AFO-13)	6	Order/Penalty	AFO	Murphy	Negotiating before filing.
4/25/03	Ag Processing Inc.	2	Permit Conditions	AQ	Preziosi	Negotiating before filing.
5/07/03	Frederika's Stein & Dine	1	Order/Penalty	WS	Hansen	Hearing continued to 11/17/03. Informal meeting 10/2/03 to discuss settlement. 10/10/03 – Inspection of well by Black Hawk Co. inspector and a well company. 10/14/03 – Revised permit issued to WS by FO1. 10/30/03 – Letter to WS attorney regarding hearing. Hearing set for 1/30/04. 11/21/03 – WS attorney filed motion to amend petition and amended petition.
5/15/03	Steve Walter d/b/a Walter & Son Waste Hauling	6	Order/Penalty	AFO	Murphy	9/1/03 – Facility being sold. Bankruptcy hearing 9/11/03.
5/15/03	Larry E. Noel	2	Order/Penalty	AFO	Clark	Negotiating before filing.
5/21/03	Natural Pork Production II (03-AFO-26)	4	Order/Penalty	AFO	Murphy	Working on stipulation to be filed with ALJ.
5/27/03	Casey's General Store #2472	6	Order/Penalty	WS	Murphy	9/1/03 – As-builts under review. 10/17/03 – Deficiency letter sent.
5/28/03	Denny Geer	4	Order/Penalty	SW	Tack	Clean-up progressing well. Penalty to be negotiated after cleanup is completed.
5/30/03	Gingerich Well & Pumping Service, LLC	6	Order/Penalty	WS	Wornson	Informal settlement meeting.
6/23/03	Iowa Select Farms, L.P.; Iowa Select Farms, Inc. (Kerrigan Gilt/Union Co.)	5	Order/Penalty	AFO	Clark	Negotiating before filing.
6/23/03	D & D Ag Enterprises LLC	4	Order/Penalty	AFO	Clark	Negotiating before filing.
7/01/03	Casey's General Stores (03-UT-03 through 03-UT- 06)	4	Order/Penalty	UT	Wornson	Negotiating before filing.
7/09/03	Country Terrace MHP	5	Order/Penalty	WW	Hansen	7/10/03 – Dept. letter to owner. 8/12/03 – Facility owner letter received regarding appeal. 11/03 – Appeal sent to DIA . Hearing set for 1/26/04.

7/10/03	Iowa Select Farms, L.P.; Iowa Select Farms, Inc. (Clarke/Union)	5	Order/Penalty	AFO	Clark	Negotiating before filing.
7/14/03	Brad Taylor	4	Order/Penalty	AQ/SW	Tack	Partial site clean-up completed. Dept. to review wood waste management prior to penalty settlement discussions.
7/16/03	Richard Bockenstedt	1	Order/Penalty	AFO	Murphy	Settled. Penalty paid. Case closed.
7/17/03	Larry Nuehring	3	Order/Penalty	AQ/SW	Tack	Negotiating before filing.
7/23/03	Denny Holtrip	3	Order/Penalty	AFO	Clark	9/24/03 – Settlement offer; awaiting FO input.
7/25/03	Bruty Lumber, Inc.	6	Order/Penalty	AQ/SW	Book	Settled. Consent amendment to be issued.
7/28/03	Westfair Association, The	4	Order/Penalty	WS	Hansen	Hearing continued to 12/12/03 in order to allow settlement discussion. 10/28/03 – Letter to attorney regarding hearing and submittal of as-builts for water storage units. 11/18/03 – Motion for continuance filed with ALJ. 11/25/03 – Dept. response filed with ALJ.
7/28/03	Poverty Acres Feedlot Inc.	3	Order/Penalty	AFO	Clark	Negotiating before filing.
8/12/03	Southern Waste Handling, Inc.	5	Order/Penalty	AFO	Clark	Negotiating before filing.
8/12/03	Cargill (Sioux City)	3	Variance Denial	AQ	Preziosi	Negotiating before filing.
8/16/03	Cedar Rapids, City of	1	Order/Penalty	WW	Murphy	9/24/03 – Settlement offer. 11/06/03 – Response from City. 11/12/03 – DNR response.
8/19/03	Harlan, City of	4	Order	WW	Hansen	10/15/03 – Plans and specs received from City engineer.
8/21/03	Joel (Brad) Chambers	1	Order/Penalty	WS/WW	Murphy	Settled. Case closed.
8/28/03	Whiting, City of	4	Order	WW	Hansen	10/03 – Amended order to Director for signature. 10/31/03 – Amended order issued. Case closed.
8/29/03	Country Living Mobile Home Park	5	Order/Penalty	WW	Hansen	9/17/03 – Facility engineer to work with DNR engineer on revised schedule.
8/29/03	The Welco Group; David Levin; Kwik Trip	6	Order/Penalty	UT	Wornson	Settlement achieved. Await penalty/tank fees payment.
9/02/03	Kent Kiburz	2	Order/Penalty	SW	Tack	Negotiating before filing.
9/04/03	Easter Enterprises, Inc.	5	Order/Penalty	UT	Wornson	Compliance initiated, prepare settlement document.
9/05/03	Strawberry Point, City of	1	Order/Penalty	WW	Murphy	Negotiating before filing.
9/08/03	Central Counties Cooperative	5	Order/Penalty	AQ	Book	Negotiating before filing.
9/24/03	F. J. Krob & Co.	1	Order/Penalty	WW	Murphy	Settled. Case closed.
10/01/03	Casey's Marketing Co. UST#8606588, Jefferson	4	Order/Penalty	UT	Wornson	Negotiating before filing.
10/06/03	Custom Feeds, Inc.	6	Order/Penalty	AQ	Book	Settled. Consent amendment to be issued.
10/06/03	Dennis Bandstra d/b/a Big Dutch	3	Order/Penalty	AQ	Book	Negotiating before filing.
10/08/03	TEGH, Inc. (03-UT-15)	6	Order/Penalty	UT	Wornson	Negotiating before filing.
10/08/03	D & S Swine, LLC	2	Order/Penalty	AFO	Murphy	Negotiating before filing.
10/17/03	River Valley Farms	5	Order/Penalty	AFO	Clark	Negotiating before filing.
10/27/03	B & Food & Gas, Inc. (03-UT-12)	6	Order/Penalty	UT	Wornson	Negotiating before filing.
10/27/03	U.S. Nation Mart, Inc. (03-UT-14)	6	Order/Penalty	UT	Wornson	Negotiating before filing.
11/04/03	Tom Wageman	4	Order/Penalty	AFO	Clark	New case.
11/18/03	Greenman Technologies	5	Order/Penalty	SW	Tack	New case. SEP agreed upon to resolve appeal. Meeting set for 12/04/03 to coordinate SEP.
11/19/03	Harlan Clasen	3	Order/Penalty	AQ/SW	Tack	New case.
11/19/03	Ron Fisher Furniture	1	Amended Order	AQ	Preziosi	New case.

11/20/03	Siouxland Energy and Livestock Cooperative	3	Order/Penalty	AQ/WW/HC	Book	New case.
11/20/03	ADM – Clinton	6	Permit Conditions	AQ	Preziosi	New case.
11/21/03	Russell and Kay Barkema; K & R Construction	2	Order/Penalty	AQ/SW	Book	New case.
11/25/03	W & H Cooperative Oil Co.; Ron Ely	2	Order/Penalty	HC	Tack	New case.

**Iowa Department of Natural Resources
Environmental Services
Report of WW By-passes**

During the period November 1, 2003 through November 30, 2003, 4 reports of wastewater by-passes were received. A general summary and count by field office is presented below. This does not include by-passes resulting from precipitation events.

Month	Total	Avg. Length (days)	Avg. Volume (MGD)	Sampling Required	Fish Kill
October '03	8(5)	0.182	0.010	3	1(0)
November '03	4(3)	0.701	0.264	2	0(0)
December '02	4(3)	1	.06875	0	0(0)
January '03	3(4)	2	.8625	0	0(0)
February '03	4(5)	0.8	0.016	2	0(0)
March '03	7(10)	0.1	0.03	2	0(0)
April '03	8(5)	0.3	0.02	1	0(0)
May '03	9(2)	0.717	0.019	4	0(0)
June '03	6(3)	0.290	0.019	3	0(0)
July '03	5(6)	0.496	0.580	2	0(0)
August '03	2(9)	0.354	0.054	0	0(0)
September '03	4(5)	0.177	0.006	1	0(0)

(numbers in parentheses for same period last year)

Total Number of Incidents Per Field Office This Period:

1	2	3	4	5	6
2	0	1	0	0	1

INFORMATIONAL ONLY

GENERAL DISCUSSION

The Commissioners discussed a possible date change regarding the EPC meetings. Any date that is agreed upon will not take affect until the April meeting or sometime thereafter. A finalized decision will be made next month. Choices are leave as the third Monday of every month or move to Thursdays.

NEXT MEETING DATES

January 20, 2004
February 16, 2004
March 15, 2004

ADJOURNMENT

With no further business to come before the Environmental Protection Commission, Chairperson Kathryn Murphy adjourned the meeting at 5:00 p.m., Monday, December 15, 2003.

Jeffrey R. Vonk, Director

Kathryn Murphy, Chair

Lisa Davis Cook, Secretary

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